

No. 10975

IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT

LAWRENCE HAZARD,

Appellant,

vs.

**COLUMBIA BROADCASTING SYSTEM, INC., a
Corporation; WALTER PIDGEON; LORETTA
YOUNG; YOUNG & RUBICAM INC., a Corpora-
tion; and GOODYEAR TIRE & RUBBER CO.,
INC., a Corporation,**

Appellees.

TRANSCRIPT OF RECORD

**Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division**

FILED

APR 23 1945

**PAUL P. O'BRIEN,¹
CLERK**

No. 10975

IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT

LAWRENCE HAZARD,

Appellant,

vs.

COLUMBIA BROADCASTING SYSTEM, INC., a
Corporation; WALTER PIDGEON; LORETTA
YOUNG; YOUNG & RUBICAM INC., a Corpora-
tion; and GOODYEAR TIRE & RUBBER CO.,
INC., a Corporation,

Appellees.

TRANSCRIPT OF RECORD

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

INDEX.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italics; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in *italics* the two words between which the omission seems to occur.]

	Page
Answer of Defendants Columbia Broadcasting System, Inc., et al.....	33
Exhibit A. Agreement Between Lawrence Hazard and Columbia Pictures Corporation.....	36
Answer of Defendant Goodyear Tire & Rubber Co., Inc.	43
Appeal:	
Notice of	255
Order Approving Record on, etc.....	257
Stipulation re Record on.....	256
Certificate of Clerk.....	258
Complaint for Infringement of Copyright.....	3
Exhibit 2. Copy of Radio Adaptation of Copyrighted Dramatic Composition.....	7
Exhibit 1 for Identification. Form of Assignment.....	241
Findings of Fact and Conclusions of Law.....	250
Judgment	254
Memorandum Opinion	248
Names and Addresses of Attorneys.....	1
Notice of Appeal.....	255
Order Approving Record on Appeal and Certifying Same to the Circuit Court of Appeals.....	257

	Page
Reporter's Transcript of Proceedings on Trial.....	227
Statement of Points on Which Appellant Relies on Appeal	260
Stipulation of Facts.....	44
Exhibit A. Screen Play and Dialogue of Motion Picture Entitled "A Man's Castle".....	47
Exhibit B. Agreement Between Columbia Pictures Corporation and Walter Pidgeon.....	224
Stipulation re Record on Appeal.....	256
Summons	2

NAMES AND ADDRESSES OF ATTORNEYS:

For Appellant:

LOEWENTHAL & ELIAS

J. ROBERT ARKUSH

633 Roosevelt Building

Los Angeles 14, Calif.

For Appellees:

MITCHELL, SILBERBERG & KNUPP

GUY KNUPP

603 Roosevelt Building

Los Angeles 14, Calif. [1*]

[Title of District Court and Cause.]

SUMMONS

To the above named Defendants:

You are hereby summoned and required to serve upon Loewenthal & Elias, plaintiff's attorneys, whose address 633 Roosevelt Building, Los Angeles 14, California, an answer to the complaint which is herewith served upon you, within twenty days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

[Seal of Court]

EDMUND L. SMITH

Clerk of Court.

By John A. Childress

John A. Childress

Deputy Clerk.

Date: March 27, 1944 [2]

In the District Court of the United States for the
Southern District of California,
Central Division

Civil Action No. 3527-B. H.

LAWRENCE HAZARD,

Plaintiff,

vs.

COLUMBIA BROADCASTING SYSTEM, INC., a
corporation; WALTER PIDGEON; LORETTA
YOUNG; YOUNG & RUBICAM INC., a corpora-
tion; GOODYEAR TIRE & RUBBER CO., INC., a
corporation; Company One, a corporation; Company
Two, a corporation; Company Three, a corporation;
Company Four, a co-partnership; Company Five, a co-
partnership; Company Six, a co-partnership; First Doe,
Second Doe, Third Doe, Fourth Doe, Fifth Doe, Sixth
Doe, Seventh Doe and Eighth Doe,

Defendants.

COMPLAINT FOR INFRINGEMENT OF COPYRIGHT

To the Honorable Judges of Said Court:

Plaintiff complains of defendants as follows:

I.

Jurisdiction in this cause is founded upon Section 34
of the Copyright Laws of the United States of America,
being Title 17 U. S. C. A., Section 34.

II.

For many years last past plaintiff has been and now is
a resident of the County of Los Angeles, State of Cali-
fornia. [3]

III.

Defendant Columbia Broadcasting System, Inc. is a corporation, duly organized under the laws of the State of New York, and qualified to do business in the State of California. Defendant Goodyear Tire & Rubber Co. Inc. is a corporation, duly organized under the laws of the State of Delaware, and qualified to do business in the State of California. Defendant Young & Rubicam Inc. is a corporation, duly organized and qualified to do business under the laws of the State of California.

IV.

Defendants Company One, a corporation, Company Two, a corporation, Company Three, a corporation, Company Four, a co-partnership, Company Five, a co-partnership, Company Six, a co-partnership, First Doe, Second Doe, Third Doe, Fourth Doe, Fifth Doe, Sixth Doe, Seventh Doe and Eighth Doe are sued herein under fictitious names for the reason that plaintiff does not know their true names, but when said true names are ascertained by plaintiff, plaintiff will ask leave of court to substitute said true names for the fictitious names herein used.

V.

Prior to May 28, 1932, plaintiff, who was then and ever since has been a citizen of the United States, created and wrote an original dramatic composition entitled "A Man's Castle." Said dramatic composition has not been reproduced in copies for sale.

VI.

Said dramatic composition contains a large amount of material wholly original with plaintiff and was and is copyrightable subject matter under the laws of the United States.

VII.

On or about May 28, 1932, plaintiff complied in all respects with the provisions of the Copyright Act of 1909 as amended, and particularly with the provisions of Section 11 of said Act, and [4] all other laws governing copyright, and secured the exclusive rights and privileges in and to the copyright of said dramatic composition, and received from the Register of Copyrights a certificate of registration dated and identified as follows: "May 28, 1932, Entry: Class D2 No. 16584."

VIII.

Since May 28, 1932, plaintiff has been and still is the sole proprietor of all rights, title and interest in and to the copyright in said dramatic composition, save and except that Columbia Pictures Corporation of California, Ltd. has a license with respect to the motion picture rights in and to said dramatic composition.

IX.

After May 28, 1932, and within one year last past, defendants infringed said copyright by preparing and producing a radio adaptation of said copyrighted work and by vending manuscripts and records thereof, and by making and procuring the making of transcriptions and records thereof, by and from which the same may be exhibited, performed, represented, produced, and reproduced, and by exhibiting, performing, representing, producing and reproducing the same. That defendants' said radio adaptation was entitled "A Man's Castle" and was copied largely from plaintiff's said copyrighted dramatic composition.

X.

A copy of plaintiff's dramatic composition is attached hereto as Exhibit 1 and hereby made a part of this

complaint. A copy of defendants' radio adaptation of plaintiff's said copyrighted dramatic composition is attached hereto as Exhibit 2 and hereby made a part of this complaint.

Wherefore, plaintiff prays:

(1) That defendants, their agents and servants be [5] enjoined during the pendency of this action and permanently from infringing said copyright of plaintiff in any manner.

(2) That defendants be required to pay to plaintiff such damages as plaintiff has sustained in consequence of defendants' infringement of said copyright and to account and pay over to plaintiff all the gains, profits and advantages derived by defendants and each of them from their infringement of plaintiff's copyright, or such damages as to the court shall appear proper within the provisions of the copyright statutes, but not less than two hundred fifty dollars (\$250).

(3) That defendants be required to deliver up to be impounded during the pendency of this action all copies, transcriptions, records and other matter in their possession or under their control or under the possession or control of any of them infringing said copyright.

(4) That defendants pay to plaintiff the costs of this action and reasonable attorneys' fees to be allowed to plaintiff by the court.

(5) That plaintiff have such other and further relief as is just.

LOEWENTHAL & ELIAS

By T. J. Elias

Attorneys for Plaintiff [6]

[Verified.] [7]

EXHIBIT 2 TO PLAINTIFF'S COMPLAINT

[Title of District Court and Cause.]

[118]

"THE STAR AND THE STORY"

Sunday, February 20, 1944 5:00 – 5:30 PM, PWT.

REED: Goodyear—the greatest Name in Rubber—

MUSIC: (Introduction and Down:)

REED: The Star—Loretta Young—and the story "A Man's Castle"—and your host, Walter Pidgeon, with the music of Alfred Newman, brought to you by the Goodyear Tire and Rubber Company.

MUSIC: (First Four Bars of Main Theme . . . Then)

REED: The public benefits because—

MUSIC: (String)

VOICE ONE: It's a forward-looking company—

MUSIC: (String)

VOICE TWO: It's versatile—

MUSIC: (String)

VOICE THREE: It leads in Research—

MUSIC: (String)

VOICE FOUR: It's a company of great resources—

MUSIC: (String)

REED: It's Goodyear, the greatest name in rubber, giving you the greatest names in entertainment.

MUSIC: And here is your Goodyear host, Walter Pidgeon.

(Applause) [119]

"The Star and the Story" -1-
2/20/44

Pidgeon: Good evening, ladies and gentlemen. I'm very proud of the opportunity of presenting to you tonight's star, Loretta Young. Loretta is one of Hollywood's busiest actresses, and I'm happy that she has found time to be with us tonight. The story is "A Man's Castle" in which Loretta Young plays the part of "Trina" and I play her rather strange companion, "Bill."

Alfred Newman, music if you please.

MUSIC: (Story Theme . . . Perhaps a Variation on "Brother Can You Spare a Dime" in a Minor Key . . . Fades Behind:)

REED: The newspapers called it the "Depression"—remember? Still—if it hadn't been for this sorry state of affairs, Bill and Trina might have never met. We find them seated on opposite ends of a park bench. Bill is immaculate in evening clothes, opera hat and cane, Trina is neatly but shabbily dressed—and there is a desperate, almost hysterical look in her eyes as she watches him toss popcorn to flocks of birds at his feet . . .

SOUND: Cooing of Pigeons

BILL: Hey, look—you at the end of the bench—will you stop lookin' at me like that? Maybe you don't like birds but they got to eat same as anyone else.

TRINA: Please—

BILL: Come on—spill it. What's the matter with you?

TRINA: Nothin'. Just let me—

BILL: What's the rush?

TRINA: Please—please let me go or I'll—I'll . . .

BILL: You'll what?

TRINA: I'll get down on my hands and knees for some of that popcorn. [120]

"The Star and the Story" -2-

BILL: Look—what is this?

TRINA: I ain't eat'n in two days.

BILL: Why not?

TRINA: I haven't any money.

BILL: Neither have the birds but they eat—regular.

TRINA: It must be great to be a bird.

BILL: If you had half the brains of one of those birds you wouldn't go hungry. Come on—let's go and eat.

MUSIC: (Up . . . Quick Seque Into Dance Tune of Early 30's . . . Fades Behind)

WAITER: Will there be anything else, sir?

BILL: No, I guess not. Just tell the manager I want to see him.

WAITER: The Manager? (Fading) Yes, sir.

BILL: Y'know they oughta let you eat in the front window. It'd bring 'em a lot of trade. I never saw a half-pint who could put away food like you can.

TRINA: When you've been outa work a whole year you get so's you're hungry most of the time.

BILL: That's no excuse. You're a girl. All you got to do is walk up to some guy and say, "Look, Mister, how about stakin' me to a meal?"

TRINA: Oh, I couldn't ever do that.

BILL: Too proud, huh? Maybe you'd rather jump in the river?

TRINA: I thought of that. This afternoon. But I was afraid.

BILL: How you ever going to get places if you're afraid of everything?

TRINA: I guess I won't ever get anywhere. It's all right for you not to be afraid. You've got everything—clothes—money— [121]

"The Star and the Story" -3-
2/20/44

MANAGER: (Fade In) Excuse me, sir—you wished to see me?

BILL: You the manager?

MANAGER: Yes, sir—if there's anything wrong—

BILL: No—everything's fine . . . except for the fact that there's twelve million people out of a job—

MANAGER: Yes, sir, but what—

BILL: And a lot of 'em are starving. Now take this young lady, for instance—up until an hour ago she hadn't eaten for two days. I brought her in here and fixed her up. She feels swell. The food was great.

MANAGER: Thank you. I'm sure that—

BILL: The only trouble is she ain't got a cent.

MANAGER: What?

BILL: And neither have I.

MANAGER: What? If this is your idea of a joke—

BILL: Now wait a minute. This joint throws out enough left-over grub in a week to feed a thousand people. You can put what she ate on the cuff an' not lose a cent.

MANAGER: This is an outrage. I'll call—

BILL: Am I right or wrong? I'll tell you what I'll do. I'll put it up to your own customers.

MANAGER: Please. Not so loud.

BILL: (Loud) Ladies and gentlemen—

MANAGER: Stop!

BILL: (Continuing) According to the newspapers, the banks are full of gold, the granaries are bursting with grain, and yet there's twelve million people—

Manager: (Loud Threatening) Get out. Get out of here—both of you! [122]

"The Star and the Story" -4-

2/20/44

BILL: Okay, buddy. (To Crowd:) Pardon the interruption, folks—the case is dismissed.

AD LIB: (Laughs)

MUSIC: (Up . . . Hold for a Moment . . . Fade Out)

SOUND: Traffic Noises . . . Footsteps.

BILL: There's nothing' like a good walk after dinner. Besides—I get paid for it.

TRINA: Paid for just walkin'?

BILL: That's right.

TRINA: But, why?

BILL: Close your eyes a second.

TRINA: All right.

BILL: Okay—open 'em up.

TRINA: (In Surprise) Ohhhhhh!

BILL: Pretty swell, huh?

TRINA: It's beautiful!

BILL: Yeah! This looks like an ordinary dress-shirt—but when I press this button, the neon letters light up an' say, "Buy Gilsey House Coffee" . . .

TRINA: You look just like a Christmas tree. Can I push the button once?

BILL: Sure . . . They give me the clothes an' two bucks a night . . . Hey—take it easy! you want to burn out the battery?

TRINA: I'm sorry . . . Is this your regular job?

BILL: Nah! I don't believe in regular jobs. Say—what's your name?

TRINA: Trina.

BILL: Yeah. Well—I guess I'll just call you "whosits."

TRINA: What's yours? [123]

"The Star and the Story" -5-

BILL: Bill.

TRINA: Bill.

BILL: Well, I got to get to work.

TRINA: Is it all right if I walk along with you?

BILL: It's a free country, ain't it? Come on. Soon's it's time to quit I'll find you a place to sleep for the night.

Music: (Up . . . Transition . . . Fades)

BILL: Well—this is it, Whoosits. Vagville-on-the-Hudson. The fastest growin' community of bums, pan-handlers and down-and-outers in the East. How'd you like it?

TRINA: It's swell. A house is a house, I guess, even if it is made out of packing boxes and old tin.

BILL: You said it. I figure you can sleep at Ira's.

TRINA: Ira's?

BILL: Yeah. He's a sky-pilot who moved down here to uplift the bums—earns his coffee an' cakes by bein' night watchman at the toy factory.

TRINA: Yes, but don't you think—

BILL: Come on—that's him sittin' over there in the door readin' . . . (Footsteps on Gravel)

IRA: (Fading in as They Approach) . . . and seeing the multitudes. He went up into the mountain and His disciples came unto Him and He taught them saying, "Blessed are the—

BILL: Hello, Ira.

IRA: Uh? . . . Oh, hello, Bill.

BILL: What time you go to work?

IRA: Eleven-thirty. [124]

"The Star and the Story" -6-
2/20/44

BILL: Okay. The young lady'll check in your house about twelve. She hasn't got a place to sleep.

IRA: She's very welcome to stay here.

TRINA: Thank you. I don't know how I can ever . . .

BILL: Forget it—Come on, Whoosits. So long, Ira . . . (Footsteps)

IRA: (Fading) So long, Bill . . . And He taught them saying, "Blessed are the poor in spirit for theirs is the . . .

TRINA: He . . . Ira, I mean . . . He's awfully nice, isn't he?

BILL: The best. Funny—when people got nothin' they act like human beings. We get along fine down here—like one big happy family.

BRAGG: (Off) Go on—get out of here, you cheap moocher, before I slap you down!

BILL: Yeah—not countin' that guy—he just moved in last week.

FLOSSIE: (Off) I want my money—you promised it to me!

BRAGG: (Off) Go on—beat it!

BILL: Hold it, Bragg. What goes on, Flossie?

FLOSSIE: He owes me some dough, Bill—an' he won't pay.

BRAGG: A coupla measley smacks! I'll give it to her when I get it.

BILL: Maybe Flossie needs it right now. Here you are, Flossie—I'll pay off for Bragg.

FLOSSIE: Thank ya, Bill. (Fading) I got a right good use for it believe me.

BILL: Now you owe me the two bucks, Bragg--and I'm the kind of guy that can collect.

BRAGG: Okay—I'm good for it, ain't I? . . . Say—who's your friend? How about an intro? [125]

"The Star and the Story" -7-

2/20/44

BILL: She ain't your type—so don't go gettin' ideas.

BRAGG: You got the exclusive on it?

BILL: I could have.

BRAGG: Well, if you ain't, I'd like to make a bid.

BILL: Come on, Whoosits—let's mosey along. It kinda smells bad around here. It might be the air an' then again it might be the company.

SOUND: Footsteps

BRAGG: (Fading) Any time he throws you over, just give me a call, Sister. I can be real entertainin' when I put myself out.

TRINA: I—I don't like him . . . do you, Bill?

BILL: That mug? Listen—he don't even like himself. Here—let's go down by the river. It's real pretty at night when you can't see the garbage scows.

MUSIC: Up . . . Then Fade Out . . . Leaving an Accordion Playing Softly in the Distance . . .

TRINA: It's just like a picture . . . the moon . . . the water . . . look . . . it makes a path.

BILL: Uh-huh.

TRINA: I wonder where you'd get to if you could walk right out on that path . . . and keep walkin' an' walkin' . . . I wonder where you'd get to?

BILL: That's easy. You'd get to the moon.

TRINA: It's so quiet . . . and those ships out there look so kinda peaceful and contented like.

BILL: G'wan. They been lyin' there for years rottin' away with barnacles. That's what you get when you're anchored. [126]

"The Star and the Story" -8-

2/20/44

TRINA: Still in all it's restful, Bill.

BILL: Sure. So's a graveyard.

SOUND: Mournful Note of Train Whistle off . . .

TRINA: What . . . What was that?

BILL: Train whistle. Tracks are right over there.

TRINA: It's scarey . . . kinda . . .

BILL Naaaa! They're what I like best about this place. They remind me of other places.

TRINA: Places you'd like to go to?

BILL: Places I'm gonna go to. You'll never catch me settlin' down in one burg. I gotta keep movin'—just like those trains. You know what those whistles say to me?

TRINA: What?

BILL: They say, "Gangway! Get out of my way! Here I come." You know where I'd like to go?

TRINA: Mom told me Atlantic City was real beautiful. She an' Pop went there on their honeymoon.

BILL: (In Disgust) Atlantic City! I wanta go to Rio. I met a little South American tomato once—an's was she able.

TRINA: I—I guess you've had lots of girls, haven't you?

BILL: Sure. I got one now that'd knock your eye out. A blonde.

TRINA: Oh.

BILL: Natural. Her name's Fay La Rue.

TRINA: Does she live down here?

BILL: Look—do you think I run around with tramps? [127]

"The Star and the Story" -9-
2/20/44

TRINA: I didn't mean—

BILL: Fay's in a big show on Broadway. Lives in a swell apartment on the avenue.

TRINA: Oh . . . I guess she's pretty crazy about you, huh?

BILL: She says I'm the kind of guy that's easy to meet an' hard to forget.

TRINA: Yeah—Yeah I guess so.

BILL: Say—say, it's gettin' late. I gotta shove off.

TRINA: You mean—you mean you got to go somewhere tonight?

BILL: Sure—I got a date to meet Fay after her show . . .

TRINA: Can I go with you?

BILL: With me? Are you nuts? What would she say?

TRINA: But I can't stay here alone! I'd be scared!

BILL: You're always scared!

TRINA: No, I'm not—

BILL: You're scared of everything in the whole world!

TRINA: No—no, I'm not scared of you, Bill.

BILL: Well, you better be! Ah' when I tell you to do somethin'—you better step, see?

TRINA: Yes, Bill.

BILL: You go up to Ira's an' go to bed—you hear?

TRINA: Yes, Bill.

BILL: I'll see you in the morning' an' stake you to breakfast.

TRINA: Yes, Bill.

BILL: Okay. (Fading) Goodnight, whoosits.

TRINA: Goodnight Bill . . .goodnight.

MUSIC: (Transition . . . Fades Down . . . Out)

SOUND: Door Opens . . . Closes [128]

"The Star and the Story" -10-
2/20/44

BRAGG: Hello, Trina. All alone by your lonesome?

TRINA: You better get out of here, Bragg!

BRAGG: What for? Ira never told me to keep out.

TRINA: Well Bill has. He told you two weeks ago to leave me alone.

BRAGG: Yaa! He's too busy with that Broadway blonde to bother about you. I sen 'em together just this mornin!

TRINA: Well supposin' you did? I ain't got no claim on Bill.

BRAGG: Sure you ain't. An' did you ever hear how he talks about you? Always crabbin' about how skinny you are.

TRINA: Well—I am skinny.

BRAGG: No, you ain't. (Softly) Not what I call skinny . . . you're slim . . . just right.

TRINA: You better get right out of here, Bragg.

BRAGG: I got better eyes than Bill . . . why, you got a swell shape . . . soft . . . curvy . . .

TRINA: Let go of me!

BRAGG: Aw, honey, wait now.

TRINA: If I tell Bill—he'll kill you, he will! He toldja, didn't he? He toldja if you ever—

(Door Opens) Bill!

BILL: Hey—what goes on here?

BRAGG: Nothin'—nothin' at all, Bill.

BILL: Didn't I warn you this shack was outa bounds?

BRAGG: Sure—but I only dropped by to pass the time. I thought maybe Trina was lonesome—you leavin' her alone so much.

BILL: When she is, I'll let you know. Until I do— [129]

“The Star and the Story” -11-
2/20/44

BRAGG: Look—what right you got to set yourself up so high an' mighty?

BILL: That's my business.

BRAGG: Yeah—well, I'm putting you outa business, wise guy!

BILL: Says you!

BRAGG: Says me! How come you hang a “Private Property” sign on a dame you got no use for?

BILL: Who says I ain't?

BRAGG: You got that Broadway blonde, Fay, ain't you? Okay! I'm takin' over Trina n' the rest of the boys in camp'll back me up on it!

BILL: You think so!

BRAGG: I know so!

BILL: Even when I tell 'em we're gettin' married?

BRAGG: Married?

BILL: Sure—me an' Trina have been keepin' it as a surprise. Now, get out of her, Bragg, an' get out fast!

BRAGG: Okay . . . Okay, Bill . . . (Fading a Little) I'll just spread the word around camp to be expectin' a wedding! So long,—beautiful—see you in church.

SOUND: Door Closes

BILL: The dirty bindlestiff! Why didn't I just bust him one instead of wastin' my breath! [130]

"The Star and the Story" -12

2/20/44

TRINA: Bill—Bill did you mean what you just said?

BILL: What I said about what?

TRINA: About . . . about gettin' married . . . ?

BILL: I said it, didn't I?

TRINA: (Breaking Down) Oh, Bill . . . Bill!

BILL: Sure—I don't blame you for cryin'! I could sit right down an' bawl myself! What'll I tell Fay? A beautiful dame like her—an' I have to get hitched up to you! Doggone—I oughta bend over an' give myself a good swift kick in the pants!

MUSIC: (Up to Finish)

(End of Act One) [131]

"The Star and the Story" -13

2/20/44

REED: Before we hear the second half of tonight's story—there's another story we'd like you to hear . . . a story of doubt in Germany. It concerns a shy, smiling young man who approached German customs in 1937. He had a package under his arm. "What is that?" said the customs official. "Rubber," the man replied. "Synthetic rubber." The official paled, his eyes tightened in

doubt . . . then he laughed and let the American through. And the American travelled throughout Germany, the precious little package tucked under his arm.

At every great chemical plant, he told them "this package contains synthetic rubber." He was immediately admitted; asked where the synthetic came from. "I made it," said the American simply. And every time—a moment of suspicious doubt as the Germans stared at him . . . then laughter! That rubber, the Germans were sure, could only be their own. And so this young man—a research man from Goodyear—travelled through Germany with his American-made synthetic rubber—hoping to learn more from the country that then professed friendship to us . . . and he learned only that Germany believed Americans couldn't possibly have made synthetic rubber. Yet he and his associates at Goodyear had made it. For then, as today, Goodyear led in research. . . . In their laboratories, they had made synthetic rubber as early as 1924. In 1927 Goodyear patented a process that [132] synthetic rubber manufacturing today. In

"The Star and the Story" -14
2/20/44

1937, Goodyear made America's first all-synthetic rubber tire. And today America is turning out literally millions of tires of synthetic rubber for passenger cars, trucks, and farm and military vehicles. Yes, the public benefits because Goodyear leads in rubber research. And the public will continue to benefit, for today, in Goodyear's new million dollar research laboratory, the company is seeking ways to improve and further utilize synthetic rubber. You see, Goodyear synthetic rubber, like all Goodyear products, must be better today than it was yesterday, better tomorrow than it is today! [133]

"The Star and the Story" -15

2/20/44

REED: And now the second act of "A Man's Castle," starring Walter Pidgeon and Loretta Young. Three months have passed since Bill brought Trina to the settlement of packing-box shacks. The one they are occupying is pathetically primitive—but it is spotlessly clean and shows Trina's brave attempts to make it more cheerful and homelike. At the moment, (Train Whistle) Bill is away and Trina is bent over a wash-tub washing his clothes. As she scrubs, she hums a melody that Bill often whistles . . .

TRINA: (Humming Use Double as Trina's Voice Will Come in Over Melody for Effect)

"Da-da-da-da-da-da-da-da-Baby—

That's the only thing I'm thinking of, Baby—

Da-da-da . . . Da-da-da . . .

Da-da-da-da . . . (Continues Behind Announcer)

ANNCR: But Trina is thinking—thinking about, Bill. Her thoughts run like this—

BUSINESS: (Vocalist Continues Back of Trina)

TRINA: (Slight Filter) (Loretta) . . . he hasn't said nothing' about goin' away for two or three weeks . . . and those train whistles . . . he don't seem to hardly hear 'em no more . . . maybe it'll always be just like this . . . maybe he likes me enough to stay . . . maybe Bragg's just tryin' to scare me when he says all them things . . .

BRAGG: (Filter) He ain't sick of you yet—but give him time! I know his kind—here today an' gone tomorrow!

TRINA: (Filter) Maybe it won't be that way! He likes me . . . I know he likes me from the way he looks at me when he thinks I ain't watchin' him . . . maybe . . . in his way—he even loves me. [134]

"The Star and the Story" -16
2/20/44

BRAGG: (Filter) You don't know your men, sister, You're a cinch to get the air sooner or later. You just wait an' see!

TRINA: (Filter) He won't leave as long as he feels free! As long as he knows he can go anytime he wants—he won't wanta go! . . .

An' I won't never do nothin' to tie him down—

BUSINESS: (Fade Humming Out in Above Speech and Sneak Orchestra in . . . a Theme That Can Build and Become Ominous Behind Following Speeches)

BRAGG: (Filter) Askin' him to buy you a new stove is tyin' him down, ain't it?

TRINA: (Filter) But this one's wore out—an' that one in the window was such a beautiful, all-around sort of stove!

BRAGG: (Filter) Yaaaa! That scared him, that did! I bet he runs out on you!

TRINA: (Filter) No!

BRAGG: (Filter) I bet he hopped a rattler!

TRINA: (Filter) No!

BRAGG: (Filter) You'll never see him again!

TRINA: (Filter) Yes!

BRAGG: (Filter) He's gone for good, Sister!

TRINA: (Filter) No! No! No! (Music Reaches Peak)

SOUND: Door Opens . . . Closes. (Music Cuts)

TRINA: (Clear Mike) Bill!

BILL: Hello, whoosits.

TRINA: (Breaking Down) Bill . . . Oh, Bill!

BILL: Hey . . . Hey, what's the matter with you? [135]

"The Star and the Story" -17
2/20/44

TRINA: Nothin' . . . nothin' . . . it's just that I'm so glad to see you, that's all.

BILL: Has Bragg been hangin' around botherin' you?

TRINA: No . . . no, I ain't even seen him. It's just that I got to thinkin' . . . you was so late, an' all . . .

BILL: I picked up a job servin' a summons—then I stopped an' played ball with some kids. Then I had some shoppin' to do.

TRINA: Shopping? You bought somethin', Bill?

BILL: Open the door an' look outside . . . Go on—take a look.

(Door Opens) Well—what d'ya think of it?

TRINA: Bill!

BILL: Pretty classy, huh?

TRINA: It's the stove!

BILL: Now maybe you can cook somethin' fit to eat now.

TRINA: You bought it! You knew how I wanted it!

BILL: I paid five bucks down. If I gave 'em two bucks a month for a year we'd own it. 'Course I won't be here that long. When I shove off in a few months you can send it back.

TRINA: Oh, Bill . . . I don't know what to say . . . It's so beautiful it just kinda hurts.

BILL: Come here.

TRINA: What?

BILL: Come here!

TRINA: Yes, Bill?

BILL: Look at you. You're a heck of a lookin' woman for a man like me. Skinny. No hips. No. nothin! [136]

"The Star and the Story" -18
2/20/44

TRINA: Well . . . I'm young, kinda . . . Maybe I'll sorta fill out.

BILL: Nope. You'll never look like a woman.

TRINA: What difference does it make, as long as you're good to me?

BILL: I'm not good to you. Why—any moment—I'm liable to grab you like this an' knock your teeth out . . . see?

TRINA: (Softly) Bill . . .

BILL: (Gently) Little old Whoosits . . . (Pause) . . . You women get some phoney ideas! This is no time of day to be kissin'! Come on, now—get to work! Yes—and if that stew's burned tonight I'll pour it right down your back!

MUSIC: (Up . . . Transition . . . Fades)

SOUND: Knock on Door

VOICE: (Off Over Sound) You're on next, Miss La Rue!

FAY: (Calling) Right! (To Bill) Here—hook me up the back, Bill.

BILL: Okay, Fay. Well—so the show closes tonight, huh?

FAY: Uh-huh—and the London opening's three months away.

BILL: Look—hold still, will you?

FAY: We can take in Miami, Bermuda, Rio . . .
How does that strike you, Bill?

BILL: Sounds great, Fay.

FAY: You don't sound very enthusiastic. Didn't you
always tell me you liked to go places?

BILL: I said it was great, didn't I?

FAY: There's nothing to keep you here, is there?

BILL: Nope.

FAY: You said something about another girl? [137]

"The Star and the Story" -19
2/20/44

BILL: She knows I'm liable to give her the air 'most
any day. All I got to do is say goodbye.

FAY: There's a boat sailing at ten o'clock in the
morning.

BILL: Okay. I'll meet you on the pier.

SOUND: Knock on Door

VOICE: (Off Over Sound) You're on, Miss La
Rue!

FAY: (Calling) Coming! (To Bill) Don't disap-
point me, honey!

BILL: I won't.

FAY: Don't forget—Pier 18, ten o'clock tomorrow
morning. I'll be waiting for you!

MUSIC: (Up Transition Down)

Sound: Door Opens and Closes

TRINA: (In a Small Voice) Hello, Bill.

BILL: (Just Off) Hello.

TRINA: Your dinner got cold. I put it back on the
stove to warm it up.

BILL: I had dinner.

TRINA: Oh . . . kinda . . . kinda hot t'day, wasn't it? . . .

BILL: Why don't you say what's on your mind? Why didn't you squawk 'cause I came home late for supper?

TRINA: You got a right to come home late, Bill.

BILL: I suppose you want me to make up excuses?

TRINA: You don't ever hafta make up excuses to me for anything. You know you don't . . . You're tired . . . Lie down an' rest . . .

BILL: I always told you I wasn't reliable, didn't I?

TRINA: Sure you did. [138]

"The Star and the Story" -20

2/20/44

BILL: Haven't I said I might wake up some mornin' with a taste in my mouth like wet hen feathers—an' when that happened, I'd take a stroll for myself—no matter how much I like you?

TRINA: Sure—but maybe it won't be tomorrow—or quite so soon.

BILL: Can't tell. I'm gettin' restless, see? . . . I got to go places . . . Come here, Whoosits . . .

TRINA: Yes, Bill?

BILL: There's somethin' I got to tell you . . . Only somehow I can't get the right words . . . Funny . . . That's never happened to me before.

TRINA: You're tired . . . like I said. Lie back an' tell me tomorrow. There— isn't that better? Didja play ball with those kinds today?

BILL: No.

TRINA: I guess they kinda missed you.

BILL: Maybe . . .

TRINA: Bill . . .

BILL: Uh-huh . . .

TRINA: Bill, listen . . . you like kids, don't you?

BILL: Why?

TRINA: Well, because . . . because you're gonna have one. (Quickly) I've know it for a long time—several months. I thought I'd be afraid to tell you—but ever since we been here I ain't afraid of nothin' . . .

BILL: Now, look— [139]

"The Star and the Story" -21
2/20/44

TRINA: Don't say nothin' till I finish, Bill . . . I want you to know something. It's your baby an' mine—but you got nothin' to worry about. I'm willin' to take all the blame for it. Why, I didn't mean to tell you at all. But pretty soon you'd know anyway, an' it's just too—too grand to keep to myself. You can't understand it, Bill—you're a man—but it's wonderful!

BILL: Wonderful?

TRINA: You needn't look at me like that, darling. I'm not afraid of you or anything anymore. Only a little while ago I was left all alone. Then you came along and there was two of us. Now there is three of us. You can never leave me now, Bill. Even if you go away—I won't be left alone! (Hysterically) No matter where you go—no matter what you do—I've got you—I've got you! You're a prisoner inside of me!

BILL: Yeah? That's what you say!

TRINA: Bill! Bill! Where you goin'!?

Bill: Out! (Door Open—Slam)

MUSIC: (Up . . . Transition . . . Fades, the Network Forbids Actual Police Sirens . . . but if the Effect Could Be Gotten Musically in Scoring This Transition . . . I Think It Would Pass . . . Anyway, Try for Something Dramatic . . . Then Cut Clean)

Sound: Door Opens . . . Closes Quickly

TRINA: Bill! Oh, Bill—you came back!

BILL: Sure I come back.

TRINA: You're hurt . . .

BILL: Forget about that— [140]

“The Star and the Story” -22
2/20/44

TRINA: You got blood on your sleeve!

BILL: It's nothin'—a bullet just nicked me, that's all—

TRINA: A bullet?

BILL: Look—there's no time for a lot of talk!

TRINA: Bill!

BILL: I only stopped to tell you not to say nothin' if the cops come around.

TRINA: The cops.

BILL: I don't want you mixed up in this. You don't know me—you never heard of me, see?

TRINA: What'd you do, Bill?

BILL: I tried to crack the safe at the toy factory—

TRINA: Bill!

BILL: Only I muffed it.

TRINA: Let me fix your arm. Oh, Bill—why didja do it? Why?

CLERK'S NOTICE

UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

LAWRENCE HAZARD,

Appellant,

vs.

COLUMBIA BROADCASTING
SYSTEM, INC., et al.,

Appellees.

No. 10975

(Assigned for hearing on
August 1, 1945)

Submitted to Circuit Judges DENMAN, STEPHENS and BOYLE.

admitted to Circuit Judge Dennis, Stephens and Bond.

Admitted.
Admitted.

SYSTEM, INC., of St. Louis, Mo.
COLUMBIA BROADCASTING SYSTEM, INC., of St. Louis, Mo.
(Said to be for hearing on

Mr. Todd

THE PHOTOGRAPHY

THE PHOTOGRAPHY

UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

CHIEF OF JUSTICE

BILL: I couldn't, could you? (Sings) "Oh, what a day!"

TRINA: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

BILL: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

TRINA: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

BILL: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

TRINA: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

BILL: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

TRINA: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

BILL: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

TRINA: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

BILL: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

TRINA: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

BILL: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

TRINA: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

BILL: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

TRINA: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

BILL: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

TRINA: (Sings) "You're a good one, you are!" (Sings) "You're a good one, you are!"

San Francisco, California.
July 10, 1945.

BILL: I couldn't check out leavin' you high an' dry, could I?

TRINA: Even if you had got the money—I wouldn't-a took it!

BILL: It takes dough to have a kid, don't it?

TRINA: For a big, strong, husky man, you're awful afraid of a little bit of a thing that ain't even born yet. Goodness! If I'd a-known it'd scare you so much, I never woulda told you. You're such a coward, darlin' . . .

BILL: Coward? [141]

"The Star and the Story" -23
2/20/44

TRINA: Afraid of havin' a baby! Huh! It's the most natural thing in the world. They're born all the time. An' if they happen to be men-kids, they never grow up—just keep reachin' for the clouds all the time, an' listenin' to train whistles. Why—you're such a silly—tryin' to rob safes to get money when you always said you had no use for money.

BILL: It wasn't for me.

TRINA: For me—I know. But I don't need any. I don't need anything—not even you. An' don't you suppose I realize how I've held you back an' messed up your plans . . . only I didn't mean to. You can go, Bill—an' stay as long as you like. Maybe some day you'll come back. Oh, not for good, I don't mean—just to visit. You might get lonely sometime, an' sorta curious an' wanta know what your son looks like—may be. Gosh—even birds can't fly all the time, can they? They get tired an' have to come home sometimes. They got nests, ain't they?

BILL: Oh, Trina.

TRINA: (Breaking) Oh, darling . . . darling . . . please please I want you to be happy. I'll do anything if you'll only be happy! I'll give up anything . . . even the baby—if you'll only be happy.

BILL: Trina . . . Trina, darling.

TRINA: Oh Bill!

SOUND: Door Opens

FLOSSIE: (Just Off) Hey, Bindlestiff, your freight train's waitin' an' you better hop aboard! [142]

"The Star and the Story" -24

2/20/44

BILL: Beat it, Flossie.

FLOSSIE: You goin' to sit there like a sap an' let the cops nab you?

BILL: I'm stickin' around.

FLOSSIE: Changed your mind sudden, didn't you?

BILL: Maybe—but I'm not leavin' Whoosits.

FLOSSIE: A lotta good you'll be to her locked up in the Big House!

BILL: Just the same—I'm stayin'.

FLOSSIE: Why, you dumb lug—why don't you ever use your head? Didn't you ever think of takin' her with you?

BILL: No—No I didn't . . . why that's the screwiest idea I ever heard of.

MUSIC (Up . . . Quick Transition . . . Fades)

SOUND: Train Effect . . . Distant Whistle . . . Click of wheels.

TRINA: It was a lovely house . . . I'll certainly miss it . . . and, oh, Bill—it was such a beautiful stove!

BILL: Forget it, Whoosits. We can always get another one on the installment plan—a better one, too . . . Warm enough? [143]

"The Star and the Story" -25

TRINA: Uh-huh . . . I never knew freight cars rode so easy-like.

BILL: Let's see . . . August-September-October-November . . . December . . . December . . . Whoosits . . .

TRINA: December . . . I guess he'll be sort of a Christmas present, Bill.

BILL: Yeah . . . Yeah, that oughta be all right . . . You know something? I guess all my life I've wanted a baby for Christmas.

TRINA: Have you really? . . . Gee! . . . Wonderful as things are—you just got to believe there's a Santa Claus!

Sound: Train Whistle

Music: (Up to Finish) [144]

"The Star and the Story" -26
2/20/44

PIDGEON: Thank you, Loretta Young, for a very beautiful and moving performance. Now don't go away until you've heard about The Star and the Story for next week . . . and also something of interest to every one who has a car. Tobe . . . if you please.

REED: The next new tire you put on your car will probably be made of synthetic rubber, a new material to most American tire makers. So when you come to select that tire, remember this . . . Goodyear has had twenty years experience in making and working with synthetic rubber. Goodyear made America's first all-synthetic rubber tire. And for twenty-eight consecutive years, it has been a fact that more people ride on Goodyear tires than on any other kind. Remember when you buy your first synthetic rubber tire, that leadership in rubber research, leadership in the study of synthetic

rubber, leadership in tire-making have made Goodyear . . . the greatest name in rubber!

PIDGEON: And—continuing with the greatest names in entertainment, next week our star will be Rosalind Russell and the story “His Girl Friday”! How does that appeal to you, Loretta?

YOUNG: Sounds just about perfect to me—I’ll be listening. [145]

“The Star and the Story” -27
2/20/44

PIDGEON: We’d like very much to have you back later this season, Loretta, so give some thought to what story you’d like to do, will you?

YOUNG: I’ll be happy to—Goodnight.

(Applause)

PIDGEON: Goodnight, Loretta Young.

REED: Walter Pidgeon academy award nominee, can currently be seen in Metro-Goldwyn-Mayer’s picture of the year, “Madame Curie.” Loretta Young can soon be seen in “Ladies Courageous.”

PIDGEON: Well ladies and gentlemen, I hope you’ll be with us next week—until then, to you all—Goodnight from Goodyear.

REED: The music on this program was arranged and conducted by the General Musical Director of Twentieth Century Fox, Alfred Newman. “A Man’s Castle” was adapted from the Columbia Picture of the same name. Be sure to listen to The Star and the Story next week when Walter Pidgeon, as your Goodyear host, brings you Rosalind Russell in the gay comedy, “His Girl Friday.” This is Tobe Reed saying goodnight on behalf of Goodyear, the greatest name in Rubber.

This is CBS . . . the Columbia . . . Broadcasting system. [146]

[Title of District Court and Cause.]

ANSWER OF DEFENDANTS COLUMBIA BROADCASTING SYSTEM, INC., A CORPORATION, WALTER PIDGEON, AND YOUNG & RUBICAM, INC., A CORPORATION.

For answer to the complaint on file in the above entitled action the defendants Columbia Broadcasting System, Inc., a corporation, Walter Pidgeon and Young & Rubicam, Inc., a corporation, deny, admit and allege as follows:

I.

Answering paragraph V of said complaint the said defendants allege that they and each of them are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph V.

II.

Answering paragraph VI of said complaint the said defendants allege that they and each of them are without knowledge or information sufficient to form a belief as to the truth of the [147] allegations contained in paragraph VI.

III.

Answering paragraph VII of said complaint the said defendants allege that they and each of them are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph VII.

IV.

Admit that Columbia Pictures Corporation of California, Ltd., under the terms of an agreement between said corporation and the plaintiff dated March 25, 1933, acquired certain rights in and to said dramatic composition "A Man's Castle," and allege that attached hereto, marked Exhibit "A" and made a part of this answer, is a full, true and correct copy of the license agreement executed March 25, 1933, between the plaintiff and said Columbia Pictures Corporation of California, Ltd. Allege that said defendants and each of them is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in said paragraph VIII of the complaint.

V.

Deny each and every allegation contained in paragraph IX. Allege that Columbia Pictures Corporation of California, Ltd., pursuant to the license agreement hereunto annexed as Exhibit "A," and prior to the year 1944, made, prepared and produced a motion picture version of the dramatic composition entitled "A Man's Castle," and that said motion picture version was exhibited throughout the United States of America and abroad. Prior to February 10, 1944, Columbia Pictures Corporation of California, Ltd., a California corporation, was merged with Columbia Pictures Corporation, a New York corporation, under the name Columbia Pictures Corporation. On February 10, 1944, Columbia Pictures Corporation licensed the defendant Walter Pidgeon to produce one radio broadcast based upon said motion picture version.

Thereafter [148] defendant Walter Pidgeon prepared and produced for radio broadcast a sketch of the motion picture version of said dramatic composition, and said sketch of said motion picture version was broadcast on the 20th day of February, 1944, from the Hollywood Studios of defendant Columbia Broadcasting System, Inc., and at no other time and on no other occasion.

VI.

Deny that the instrument attached to the complaint as Exhibit 2 is a radio adaptation of plaintiff's copyrighted dramatic composition, and allege that said instrument is the radio sketch of the motion picture version of said dramatic composition, which motion picture version was prepared and produced by Columbia Pictures Corporation of California, Ltd. pursuant to the license agreement hereunto annexed as Exhibit "A."

Wherefore, defendants pray that said action be dismissed, that defendants recover their costs in the action and reasonable attorneys' fees to be allowed to the defendants by the court, and for such other and further relief as is just.

MITCHELL, SILBERBERG & KNUPP

By Guy Knupp

Attorneys for said Defendants. [149]

EXHIBIT "A"

Agreement made this 25th day of March, 1933, between Lawrence Hazard hereinafter called the "Owner(s)" and Columbia Pictures Corporation of California, Ltd., a California Corporation, hereinafter called the "Purchaser" as follows:

1. The Owner(s) hereby grant(s) sell(s) assign(s) and set(s) over to the Purchaser, forever, the entire motion picture rights, including the silent and/or sound and/or talking and/or musical, (in all languages), motion picture rights (all such rights being hereinafter included and embraced in the expression "motion picture rights"), for the entire world, in and to a certain dramatic work entitled "A Man's Castle" written by Lawrence Hazard (hereinafter called the "Author(s)" the title and them thereof, exclusively, together with all of the benefits of the copyrights of such work and of all remedies for enforcing such copyrights with respect to such motion picture rights.

The Owner(s) hereby grant(s) to the Purchaser the exclusive right to make motion picture versions and silent and/or sound and/or talking and/or musical motion picture versions of such work (all such versions being hereinafter included and embraced in the expression "motion picture versions"), to translate, adapt, arrange, change, transpose, add to and subtract from such work and the title thereof to such extent as the Purchaser may deem expedient, to use excerpts from such work for the title, sub-titles, text and dialogue of such motion picture versions, to publish, for the purpose of advertising and exploiting such motion picture versions, in such form as the Purchaser may deem advisable, including its publications in newspapers, fan magazines and trade periodicals, a

synopsis or story of such motion picture versions, not exceeding, however, ten thousand words in length, to use excerpts from such work in heralds, programs, booklets, posters, lobby displays, press books and all other mediums of advertising and publicity whatsoever, [150] ever, to broadcast sketches of such motion picture versions, to use parts of such work or of the theme thereof in conjunction with other work or works in the making of motion picture versions, and the exclusive unlimited and unrestricted right to produce, reproduce, distribute, exhibit and otherwise exploit and dispose of such motion picture versions, and to secure copyright and copyright registration therein in all countries of the world in Purchaser's name or otherwise.

The Owner(s) hereby appoint(s) the Purchaser his true and lawful attorney irrevocable, in the Owner(s) name or otherwise, but for the Purchaser's sole benefit and at the Purchaser's expense, to enforce and protect such motion picture rights under any and all copyrights and renewals of copyrights and to prevent the infringement thereof and to litigate, collect and receipt for all damages arising from any infringement of such rights and to join the Owner(s) in the Purchaser's sole judgment, as a party plaintiff or defendant in any such suit for infringement.

2. The Owner(s) warrant(s) that the Owner(s) (is) (are) the sole owner(s) of the motion picture rights in such work and (has) (have) full right and authority to grant the rights hereby conveyed. The Owner(s) further warrant(s) that such work is original with the Author(s) in all respects and that no incident therein contained, and that no part thereof was taken from or based upon any other literary or dramatic or musical work or any motion picture or in any way infringes upon the

copyright or common law right or the literary, dramatic or motion picture rights of any party whosoever; that such work has been duly copyrighted in the United States in the name of the Author(s) under the title "A Man's Castle," on May 28, 1932 under Entry: Class D2, No. 16584; that the motion picture rights of such work have in no way been sold, mortgaged or otherwise disposed of and are free and clear of any [151] liens or claims whatsoever in favor of any party whomsoever; that the title of such work, mentioned in Article 1 hereof, may be used as the title of any such motion picture version; that the reproduction and exhibition of such work in the form of motion picture versions will not in any way infringe upon any rights of any party whomsoever; that the Owner(s) (has) (have) done no act or thing that can in any way prevent or interfere with the full enjoyment by the Purchaser of the rights hereby acquired.

The Owner(s) agree(s) and guarantee(s) to defend, indemnify and hold the Purchaser harmless against any losses, damages, expenses or judgments which may be sustained or suffered by or secured against the Purchaser by reason of the use of the title of such work for the title of any such motion picture versions, or of any infringement of any copyright or common law rights or any literary, dramatic, musical or motion picture rights, on account of any use which the Purchaser may make of such work in the making of the motion picture versions thereof, the distribution, exhibition or other disposition of such motion picture versions, or the exercise or attempted exercise of any of the rights hereby granted.

The warranties contained in this article apply only to the material used in such motion picture versions taken from such work written by the Author(s) and do not

in any way apply to any extraneous matter inserted by the Purchaser in such motion picture versions.

3. The motion picture rights herein granted and assigned to the Purchaser by the Owner(s) include the exclusive right to make and use disc records, sound on film, and any and all other mechanical contrivances or devices for the recordation of the sound and talking and musical and other audible portions of any such motion picture versions and for the reproduction and performance of all such sounds as part of or incidental to the exhibition thereof, [152] and also include the exclusive right to project by television, radio, electricity or in any other manner any such motion picture versions, including the sound, talking, singing and other audible portions thereof, through space, for exhibition and performance at any and all places away from that wherein any such motion picture versions shall be exhibited and performed.

4. Deleted.

5. In case there shall be any renewals or extensions of the United States Copyright in such work or in any part thereof, then the Purchaser shall be deemed to have acquired under any and all such renewed or extended copyrights, all the rights in such work which have herein been granted, sold, assigned and set over to the Purchaser, and if requested by the Purchaser, the Owner(s) agree(s) to duly execute or cause to be duly executed, acknowledged and delivered, any instruments that may be necessary, proper or expedient to establish the vesting in the Purchaser of such rights during such renewed or extended period.

6. The Purchaser agrees to use the name of the Author(s) in its paid publicity and to state upon the film itself, for exposure long enough to be read, that such

motion picture versions or parts thereof are based upon the work written by the Author(s), or words to that effect.

7. All rights not herein specifically granted to the Purchaser shall be reserved to the Owner(s).

8. The Owner(s) agree(s) to duly acknowledge, execute and deliver, or procure the due execution, acknowledgment and delivery to the Purchaser of any and all further assignments and other instruments that may be necessary or expedient to carry out and effectuate the purposes and intent of this agreement and to convey to the Purchaser all rights herein granted to it, during the original term of the United States Copyright in such work and during all renewals and extensions thereof. [153]

9. In full consideration for all grants herein made and all rights herein assigned, the Purchaser agrees to pay to the Owner(s) upon the execution and delivery hereof, the sum of Twenty-Five Hundred (\$2500.) Dollars by paying the same to and to the order of Century Play Company, 1440 Broadway, New York City, as Agent for the Owner. Receipt of the foregoing is hereby acknowledged by the Owner(s).

10. Wherever in this agreement reference is made to the Owner(s), it shall be deemed to embrace and include the Owner(s) heirs, executors, administrators, next of kin, successors and assigns, and wherever reference has been made to the Purchaser, such reference shall be deemed to include and embrace its successors and assigns and the Purchaser shall have the free, full, unrestricted and unlimited right to sell, assign, transfer or otherwise dispose of this agreement, and/or any or all of its right, title and interest thereunder, in whole or in part.

11. This agreement shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, next of kin, successors and assigns of the parties hereto.

In Witness Whereof, the parties hereto have caused these presents to be duly executed the day and year first above written.

(Signed) Lawrence Hazard

COLUMBIA PICTURES CORPORATION,
of California, Ltd.

By (Signed) Jack Cohn

(Corporate Seal) [154]

State of New York)
) ss:
County of New York)

On this 25th day of March, 1933, before me personally came Lawrence Hazard to me personally known and known to me to be the individual described in, and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same for the uses and purposes therein mentioned.

(Notarial Seal)

Lynn Davidson

Notary Public Westchester Co.
Cert. filed in N. Y. Co. #758

Commission expires March 30, 1934.

State of New York)
) ss:
County of New York)

On this 27th day of March, 1933, before me personally came Jack Cohn to me known, who being by me duly sworn did depose and say that he resides in N. Y. City; that he is the Vice President of Columbia Pictures Corporation of California, Ltd., the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

(Notarial Seal)

Bernard Birnbaum

Notary Public Kings Co., No. 479B,
Reg. No. 4600, Cert. filed in N. Y. Co.
No. 1518, Reg. No. 4-B-951.

Commission expires March 30, 1934. [155]

[Title of District Court and Cause.]

ANSWER OF DEFENDANT GOODYEAR TIRE &
RUBBER CO., INC., A CORPORATION.

The defendant Goodyear Tire & Rubber Co., Inc., a corporation, for answer to the complaint on file herein, denies, admits and alleges as follows:

I.

Alleges that said defendant is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph V.

II.

Alleges that said defendant is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph VI.

III.

Alleges that said defendant is without knowledge or [156] information sufficient to form a belief as to the allegations contained in paragraph VII.

IV.

Alleges that said defendant is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph VIII.

V.

Denies each and every allegation contained in paragraph IX.

VI.

Alleges that said defendant is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph X.

Wherefore, defendant prays that plaintiff take nothing by his complaint, that said action be dismissed, that defendant have and recover of and from the plaintiff its costs in the action and reasonable attorneys' fees to be allowed to defendant by the court, and for such other and further relief as is just.

MITCHELL, SILBERBERG & KNUPP

By Guy Knupp

Attorneys for Defendant Goodyear Tire & Rubber Co.,
Inc., a corporation. [157]

[Title of District Court and Cause.]

STIPULATION

It Is Hereby Stipulated as Follows:

1. The allegations of paragraphs I, II, III, IV, V, VI and VII of the complaint are true. A true and correct copy of the dramatic composition written by plaintiff and referred to in paragraph V of the complaint is attached to the complaint and marked "Exhibit 1."

2. The license agreement referred to in paragraph VIII of the complaint, dated March 25, 1933, between plaintiff and Columbia Pictures Corporation of California, Ltd. is attached to the answer herein and marked "Exhibit A." The said license agreement was prepared by

Columbia Pictures Corporation of California, Ltd. upon its own printed form.

3. Thereafter Columbia Pictures Corporation of California, Ltd. produced a motion picture photoplay entitled "A Man's [158] Castle," the screenplay and dialogue continuity for which motion picture is hereunto annexed and marked "Exhibit A."

4. Prior to February 12, 1944, Columbia Pictures Corporation of California, Ltd., a California corporation, was merged with Columbia Pictures Corporation, a New York corporation, under the name of Columbia Pictures Corporation.

On February 10, 1944, Columbia Pictures Corporation entered into an agreement, in writing, with defendant Walter Pidgeon, a true and correct copy of which agreement is annexed hereto and marked "Exhibit B."

Walter Pidgeon had theretofore entered into a contract with defendant Young & Rubicam, Inc., under the terms of which Pidgeon was employed to secure the necessary assistants—other than the guest star—and music, and to arrange for, produce and act in a radio play to be broadcast over the facilities and from the studio of defendant Columbia Broadcasting System, Inc., Young & Rubicam, Inc., acted for and on behalf of a corporation which sponsored the program and said corporation is not a defendant in this action. The program was broadcast on February 20, 1944, from the Hollywood studios of Columbia Broadcasting, over a national hookup comprising 131 stations. The duration of the program was one half

hour, and a full, true and correct transcription thereof is attached to the complaint and marked "Exhibit 2." The radio play was not broadcast at any other time or over any other station.

5. Defendant, Goodyear Tire and Rubber Co., Inc., expressly denies that it in any way participated in, was responsible for, procured or caused to be done any of the acts or things referred to in paragraph IX of the complaint.

6. In addition to this stipulation and the exhibits thereto, the court may, if it so desires, listen to a transcription of the radio broadcast and view the motion picture based upon the screenplay hereto attached as "Exhibit A." [159]

7. In addition to this stipulation, either plaintiff or defendants may, upon the trial of said action, offer such evidence not contrary to this stipulation as he or they may consider material.

Dated: August 31st, 1944.

LOEWENTHAL & ELIAS

By Paul Loewenthal

Attorneys for Plaintiff

MITCHELL, SILBERBERG & KNUPP

By Guy Knupp

Attorneys for Defendants. [160]

[Title of District Court and Cause.]

EXHIBIT A TO STIPULATION

[161]

MAN'S CASTLE
COLUMBIA NO. 2

33 - 34

13

[162]

COLUMBIA NO. 2

13

Please return this script to Production Manager
When Picture is Completed

Wright-O

(
(
(Received from Production Manager's Office
(
(
(
(
(
(
(
(
(
(
(
(
(

(1 SCRIPT 13

(Title COLUMBIA NO. 2

(Signed.....

([163]

COLUMBIA #2

FADE IN:

1. EXT. SECTION OF A CITY PARK—DUSK—
CLOSE SHOT

Of some pigeons scurrying about, picking at popcorn or bread crumbs being thrown to them.

CAMERA TRUCKS BACK to show Bill seated on one end of a park bench—the very personification of Van Bibber—a sartorial sensation in evening clothes with tails, Inverness cape, opera hat and cane. Bill is a burly young man in his late twenties, built like a football player and wearing his stylish clothes magnificently. Yet there is something about him which tips off the fact that he would look even better in a sailor's rig or corduroys. He is enjoying himself feeding the pigeons, leaning over as he throws the popcorn in their midst. He smokes a cigarette.

It is a midsummer evening. From the Casino, nearby but out of the shot, comes the honeyed moaning of a stringed orchestra. This will play through the progress of the scene.

As he feeds the pigeons, Bill looks out of the corners of his eyes toward his right. We get the feeling that he is surreptitiously watching something. Finally he sits upright from his bending position and openly turns his gaze right with an expression of slightly suspicious appraisal. As he does so, CAMERA PANS RIGHT for CLOSE SHOT OF TRINA, seated on the other end of the bench. She is neatly but shabbily dressed, her suit shiny with wear but bravely tidy. She is act-

ing strangely. As she watches the pigeons her face works and there is a desperate, almost hysterical look in her eyes. There is a pinched look about her mouth. She is pitifully thin and haggard. She is about twenty-one.

Aware of the scrutiny of the man on the other end of the bench, she takes her eyes off the pigeons and sits stiffly. Over this shot comes the voice of Bill.

BILL'S VOICE

What's the matter?

As she turns toward him CAMERA DRAWS BACK for a TWO SHOT. The cooing of the pigeons blends with the dulcet sounds from the Casino nearby as Bill moves nearer to Trina on the bench.

Continued [164]

1. CONTINUED

BILL

(his voice and manner of speaking in striking contrast to his fashionable get-up)

Come on—Spill it.

(he edges closer)

I been watchin' you ever since you sat down here an' you look like you were rehearsin' sumptin'. What is it?

Terrified, the girl rises and is about to start away when he gets up and bars her progress—CAMERA DRAWING BACK TO WIDER ANGLE.

TRINA

(in a low voice)

Please—

BILL

What's the rush?

TRINA

Lemme go, or I'll—I'll—

BILL

You'll what?

She looks at him a moment in silence, then blurts out almost hysterically.

TRINA

I'll get down on my hands and knees for some o' that popcorn.

2. CLOSE TWO SHOT

BILL

What is it? I thought I knew all th' panhandlin' routines. Or are you the little girl reporter workin' on a sob story? If you are, I can tip you off to some swell stuff about these pigeons. Take that one there—

(he indicates)

INSERT: CLOSE SHOT

Featuring one of the pigeons picking at crumbs.

BILL'S VOICE

I call him Oliver Twist. He's always askin' for more.

Continued [165]

2. CONTINUED

BACK TO SCENE: As Bill continues:

BILL

And that one there—

Trina starts away. He grabs her arm.

BILL

Wait a minute. Are you really hungry?

TRINA

I ain't eaten in two days!

BILL

Two days? Why not?

TRINA

I haven't any money.

BILL

Neither have the pigeons, but they eat—
and regular.

3. MED CLOSE SHOT

(Favoring Trina)

TRINA

(bitterly)

It must be great to be a pigeon. There's
always somebody throwin' 'em crumbs.

BILL

If you have the brains of a pigeon you
wouldn't be hungry.

Tears well up in Trina's eyes and her lips twitch.
She is on the verge of open tearful hysteria. He
flips his cigarette away into the bushes, then takes
her by the arm.

BILL

Come on. Let's eat.

PAN as they start away.

DISSOLVE TO:

4. INT. CASINO—MED. CLOSE SHOT

Bill and Trina are seated at a table in a well fitted dining place. Music from the same orchestra comes into

Continued—[166]

4. CONTINUED

the scene. Bill's opera hat and cane are on a chair between them at the table. They have reached the coffee and dessert stage and the girl is avidly doing away with an elaborate confection. Bill's coffee and dessert are untasted before him. He is smoking a cigar, with an amused glint in his eyes, he watches her put away the food.

BILL

(after a silence during which the girl eats steadily)

For a pint size like you, you can certainly put it away. You're hungry all right. But if you think I fell for your line of hooey, you're crazy.

5. CLOSE SHOT

Trina eating. Bill's voice continues over shot:

BILL'S VOICE

No female ever has to starve in a town like this.

TRINA

(eating)

Why not?

BILL'S VOICE

Because she's female.

TRINA

(pauses; then speaks slowly)

Were you ever outa work for a whole year?

6. CLOSE SHOT

Bill.

BILL.

I been outa work all my life. And anyway, the unemployment problem's got nothing to do with women—

7. TWO SHOT

Favoring Trina, as she looks up, getting his meaning. He continues:

Continued—[167]

7. CONTINUED

BILL

Did you ever think of that?

TRINA

Yes. I thought of it.

BILL

Well?

TRINA

(simply)

I couldn't.

8. REVERSE ANGLE

Favoring Bill.

BILL

(sneers)

I suppose the river's better'n that.

TRINA

I thought o' that, too. I was down there
this afternoon. But I was afraid.

BILL

How you ever goin' to get anywhere if
you're afraid of everything?

9. MED. CLOSE SHOT

Of the two.

TRINA

I guess I just won't ever get anywhere.

(she notices his untasted food)

You're not eatin'.

BILL

I ain't hungry.

TRINA

Have you ever been hungry?

BILL

Nobody ever has to be hungry, *anywhere*.

[168]

10. CLOSE TWO SHOT

Favoring Trina. She looks at him wisely, noting
his fashionable attire, glancing at his opera hat
on the chair nearby.

TRINA

Oh, it's all right for you to say that—
you're rich.

Bill looks up suddenly and snaps his fingers. A
waiter comes into scene and up to the table.

11. THREE SHOT

Featuring Bill and waiter.

BILL

Call the manager.

WAITER

Anything wrong, sir?

BILL

No, everything's swell. I just want to
see him a minute.

WAITER

Yes, sir.

He exits. Bill turns to Trina again.

BILL

You shouldn't ever ought to skip meals.

TRINA

That was the best food ever I ate.

(with a sigh of content)

I feel better now.

BILL

You look better.

(he inventories her slight form with his
eyes)

If you filled out a little you'd get by in
a crowd, at that.

(judicially)

Women oughta stick out here an' there.

TRINA

You can't help the way you're made.

BILL

Why can't you?

[169]

12. MED. SHOT

Shooting past table toward manager as he arrives, bowing and smiling.

MANAGER

Did you wish to see me?

BILL

Yeah . . .

(he takes his opera hat and cane from the chair and places it on the table—gesturing toward the chair)

Sit down.

The manager sits down and waits expectantly.

13. CLOSE SHOT

Featuring Bill and manager. Bill takes his time, puffing on his cigar, blowing smoke rings.

BILL

There're supposed to be twelve million people in this country without work. Didya know that?

MANAGER

(startled)

Yes, I—

BILL

And a lot of 'em are starving. So they tell me. Now take this young lady, for instance—

(he gestures with his cigar toward Trina)

Up to an hour ago she hadn't eaten for two days. She was starving. So I brought her in here and fixed her up. She feels swell now. Says it's the best food she ever et.

MANAGER

(bewildered)

I'm glad to hear that. Thank you.

BILL

The only trouble is she ain't got a cent.

(he pauses and blows a smoke ring)

An' neither have I.

[170]

14. CLOSEUP

Manager. His eyelids flutter once or twice in a blink eloquent of his astonishment.

15. CLOSE SHOT

Bill, shooting past manager.

BILL

So the feed's on you, brother.

(in a chatty tone)

Now, there's a lotta ways of handlin' a case like this—

16. CLOSEUP

Trina, over which Bill's voice continues:

BILL'S VOICE

—you can call a cop an' have the pair of us
thrown into the can—

17. THREE SHOT

Favoring Bill and manager.

BILL

We're sent to the Island where we're fed
by the State for thirty days, at least. The
more vags the State has to feed, the more
taxes you people have to pay.

MANAGER

(outraged)

If this is your idea of a joke—

BILL

(aggressively)

Now, wait a minute. This is one of the
joints that throws out enough left-over
grub in a week to feed a thousand people.
So you can afford one on the house once
in a while.

(raising his voice)

Am I right or wrong? Tell you what
I'll do! I'll put it up to your customers
here—

18. MED. SHOT

By this time his raised voice has attracted the attention at nearby tables and people look in his direction as he continues:

BILL

I'll ask 'em whether it's right for you to let somebody die of hunger right outside of your dump. If they say I'm wrong, I'll admit it.

He rises, picks up a spoon and raps his tumbler sharply several times to attract attention.

19. MED. LONG SHOT

Shooting over heads of patrons toward Bill, as they look in his direction and startled waiters pause in their duties.

BILL

(in the manner of one about to begin a lengthy and eloquent oration)

Ladies and gentlemen—

20. MED. CLOSE SHOT

Featuring Bill as he continues:

BILL

Accordin' to the newspapers, the banks o' the nation are full o' gold, the granaries are burstin' with grain, an' yet there's twelve million people—

The manager, almost apopleptic, interrupts as he stands in front of Bill.

MANAGER

Go on—get out of here! Get out!

21. WIDER ANGLE

BILL

O.K.

(gravely, to the startled patrons)

The case is dismissed.

Continued—[172]

L. CONTINUED

He picks up his hat and cane and addresses the astounded Trina.

BILL

Come on—

(he snaps his fingers as though trying to think of her name, then gives her one of his own)

—Whoosits.

He takes the Inverness cape, which has been draped over the chair occupied by the manager, and holds it up for Trina. He places it about her shoulders with an eloquent gesture. She draws it close about her.

BILL

There's nothing like a good walk after dinner.

He takes her arm and, jauntily swinging his cane, they exit, followed by the amazed gaze of the patrons as

DISSOLVE TO:

22. EXT. BROADWAY—NIGHT—MOVING SHOT

Bill and Trina as they walk down the street. They make an ill-assorted pair—he magnificent in his evening clothes; she a little drab in her everyday clothes and looking tiny beside his bulk. She is very proud to be walking alongside this man and a little afraid. She has perked up considerably, what with the food and the excitement in the restaurant. From somewhere ahead of them a store front radio emits orchestral music with a crooning vocal accompaniment which persists thruout the entire scene.

BILL

Where d'you live?

(she shrugs)

I might as well take you home.

TRINA

That'd be all right if I had a home.

This brings Bill to a stop.

23. MED. CLOSE SHOT

Of the two. Throughout this shot there will be a constant flux of passersby, some of whom will throw an occasional

Continued—[173]

23. CONTINUED

curious glance at the ill-assorted pair.

BILL

(explosively)

What's the matter with you? Haven't you got anything?

She shakes her head sadly.

BILL

Where d'you figure on spendin' the night?

TRINA

I don't know.

BILL

Have you got a grip?

She shakes her head.

BILL

Well, get one somewhere. Then go to a hotel and register. Stay there till they hand you a bill—then tell 'em you're broke.

24. TWO SHOT

Favoring Trina.

TRINA

Then what happens?

BILL

Then they throw you an' you go to another hotel.

TRINA

I couldn't do that.

BILL

Why not?

TRINA

I'd be afraid.

(she pauses and adds)

Do you live in hotels—that way?

25. REVERSE ANGLE

Favoring Bill.

BILL

Nah. I got no use for hotels.

TRINA

(timidly)

What do you do for a livin'?

BILL

I live.

(he put his hands in his pockets suddenly
and says)

Close your eyes a minute.

Surprised, she obeys.

26. CLOSEUP

Trina, obediently standing with her eyes closed.
Over this the voice of Bill:

BILL'S VOICE

Now open.

She opens her eyes and takes it big as she sees:

27. CLOSE SHOT

Bill. His shirt front is now illuminated with lettering which reads: GILSEY HOUSE COFFEE. The advertising legend flashes on and off his shirt front as he works the electric card from a button switch in his pocket. Bill rather keenly enjoys the bewilderment of Trina.

[175]

28. MED. CLOSE SHOT

of the two. People passing by now definitely pause to look at the ballyhoo, nudging each other and smiling.

BILL

Two bucks a day for this—an' all you gotta do is to walk up an' down an' flash the light on an' off.

TRINA

(awed beyond measure)

Is this your regular job?

BILL

Nah. I don't believe in regular jobs. I'm only doin' this for a friend of mine. I sub for him on his night off.

TRINA

(wondering)

And all you gotta do is walk up an' down?

BILL

That's all.

TRINA

Is it all right if I walk up an' down with you?

BILL

It's a free country, ain't it?

CAMERA TRUCKS BEFORE THEM as he resumes his walk with Trina alongside. As they promenade down Broadway with eddies of humanity passing on both sides, the legend of Gilsey House Coffee blinks on and off on Bill's shirt front while passers-by stare and nudge each other.

They walk in silence for a while. Trina looks at Bill with vast awe and respect. There is something truly magnificent in the way in which he handles his cane. He has the look of a free man about him.

BILL

(almost to himself)

I suppose I'll have to get you a place to sleep tonight.

She doesn't answer but walks happily along at his side. Her manner is that of one who has completely entrusted her destinies to another. She is like a little dog to whom somebody has been kind and who will trot forever at her master's heels.

Continued—[176]

28. CONTINUED

BILL

What's your name?

TRINA

Trina.

He grunts and scowls. He doesn't care for the name.

TRINA

What's yours?

BILL

Bill.

TRINA

Bill . . .

She speaks the name almost inaudibly, with a tender wistfulness, as we

DISSOLVE TO:

29. EXT. VAG ENCAMPMENT—NIGHT CLOSE SHOT

of a street post sign of enamelled metal, upon which is lettered: PARK AVENUE.

CAMERA TRUCKS BACK and we see that it is tacked onto the side of a miserable shack. CAMERA DRAWS BACK FURTHER to take in the backs of Bill and Trina, standing on the fringe of the vagrants' encampment. Trina still has on the Inverness cape belonging to Bill's outfit and he still has on his ballyhoo clothes. Music from an accordion being played nearby can be heard and will continue, more or less distinctly, until the fade out.

30. TWO SHOT

Bill and Trina.

BILL

Here we are, Whoosits.

(he waves his arm in an all-embracing gesture covering the encampment)

Vagville-on-the-Hudson . . . the fastest growin' community in the East. One o' these days when I'm in the mood I'm goin' to start a Chamber of Commerce here to tell the world about it.

(he pauses)

How d'you like it?

As Trina looks about.

[177]

31. SLOW PAN SHOT

from their angle, of an encampment covering an acre or more of space—a typical squatters' area with no two shacks alike and a general appearance of things thrown together. Nevertheless we get the feeling of a community about the place and of

more or less permanence. In the moonlight, which softens the drab ugliness of the encampment, it is not without a certain picturesque charm. Some of the shacks are dark, their occupants obviously sleeping; in others lights gleam out and, inasmuch as it is a warm summer night, some of the doors are open giving glimpses of family life within. The PAN SHOT not only takes in details of the encampment but its surroundings. On one side are docks and the river with its vague bulks of shipping and the reflected lights of anchored craft gleaming in the water. In the immediate b. g. are railroad tracks and trains, and in the far b. g. the towering skyscrapers. The tall buildings loom with a vague menace, like a forest surrounding a little clearing.

32. TWO SHOT

as Trina completes her survey of the place.

TRINA

(with the deepest sincerity)

It's swell!

(she shakes her head)

Gee—I been in the city a whole year an'
I never even knew there was such a place.

BILL

That's one of the best things about it—the privacy. It's the only way to live—no rent—no taxes—

(gestures toward the river)

—runnin' water, a whole river of it—and the dump is lousy with southern exposure.

The long suspended, mournful wail of a locomotive wafts into the scene.

BILL

That's what I like the best. Them train whistles—to remind you of other places. You hear 'em all night. Don't you love the sound of it?

TRINA

It's scarey, kinda.

Continued—[178]

32. CONTINUED

BILL

(disgusted)

Nah.

(he looks toward the railroad tracks)

“Gangway! Get outa my way! Here I come!” That's what it says.

(the whistle comes again, fainter from the distance, and Bill speaks dreamily)

Like a long distance call.

(with an abrupt change)

Come on.

They start walking.

33. TRUCKING SHOT

as they walk through the encampment—the purpose of which is to establish, in passing, details of the atmosphere of the encampment. Trina takes in every detail with eager interest. Occasionally Bill

waves a greeting to somebody within a shack. CAMERA takes in, in passing, the shack in which the accordion is being played—the little group within the shack consisting of perhaps a man, his wife and two or three children—looking mysterious and eerie in the kerosene lamp-light within the shack.

TRINA

Which one o' these houses do you live in?

BILL

None o' them. I don't go for houses. Mostly I sleep in the open. An' when it rains I take my choice. They're all my pals here an' I can bunk with any one o' them

TRINA

They must be swell people.

BILL

The best. Funny . . . when people got nothin' they act like human beings. We get along fine here—it's like a big, happy family.

The sound of loud and disputatious voices comes into the scene.

BRAGG'S VOICE

Keep outa here, I tell you! I can't pay you if I haven't got it, can I?

Continued—[179]

33. CONTINUED

FLOSSIE'S VOICE

I'll find some way to collect!

As Bill and Trina pause and look in the direction of the voices, CAMERA SWINGS OVER to take in Bragg's shack, a miserable, make-shift affair consisting of a patchwork of tents, a tarpaulin and tar paper. The glimpse we get of the interior of the shack is on a par with its general character—filthy, unkempt and stark.

Bragg, a middle-aged unkempt man in vest and shirtsleeves, is standing in his doorway arguing with Flossie, a blowsy female in a gaudy kimono, whose hoarse, whiskey voice and general appearance tip off immediately what she is—a broken down prostitute. She is in her late thirties.

BRAGG

What'll you do? Sue me?

FLOSSIE

I don't let anybody beat me outa what they owe me.

34. MED. CLOSE SHOT

of the two.

BRAGG

I didn't say I wouldn't pay you, did I?

FLOSSIE

You've had the money a dozen times. You got no intention of payin', you crummy heel!

BRAGG
(angrily)

Go on, you cheap moocher, before I slap you down!

PAN as she retreats before his threatening advance. As she backs up, Bill and Trina, who have been watching, come into the shot and Bragg is stopped by Bill's voice.

BILL

Hold it, Bragg.

(he looks from Bragg to Flossie)

What's wrong?

[180]

35. GROUP SHOT
favoring Bill.

BRAGG

Imagine that played-out has-been! What I shoulda done is let her have it. Did'ya hear what she called me?

BILL

What's it all about?

FLOSSIE

He owes me some dough an' he won't pay.

BRAGG

A coupla measley smacks. She put me on the cuff—you know how it is. An' if I don't give her the dough what does—

BILL

But you will give her the dough.

BRAGG

(shifting)

I can't pay what I haven't got, can I?

Bill takes two dollar bills out of his pocket.

BILL

It just so happens I got paid off to-night . . .

(he hands the greenbacks to Flossie)

Here—

(to Bragg)

Now you owe it to me, Bragg.

36. ANOTHER ANGLE

Favoring Flossie, as she looks at the greenbacks, then at Bragg, wordless. She stumbles out of the scene.

BRAGG

You shouldn't'a gave her that two bucks, Bill. She'll only spend it for booze.

Continued—[181]

36. CONTINUED

BILL

That's her business.

(sternly)

No white man'd trim a woman outa that kind o' money.

(he takes Trina's arm)

You owe me two bucks.

Bill exits with Trina.

37 and 38 OUT

39. TRUCKING SHOT

With Bill and Trina as they walk away. We see more of the encampment ground as they walk along in silence for a moment.

BILL

(meditatively)

I was goin' to ask Flossie to put you up for the night, but maybe that's not so hot. If she spends that money for gin she won't be much of a roommate.

TRINA

(timidly)

I could sleep in the open, I guess.

BILL

Nah. That takes trainin'.

(he reflects)

I got it! Bear left—

As they turn left, CAMERA PANS, holding them in shot as they approach another shack.

40. MED. CLOSE SHOT

at shack, as Bill leads Trina up to the open doorway—thru which can be seen Ira, an elderly, white-haired man of about sixty (Henry Walthall type) seated at a rough deal table reading by the light of a kerosene lamp. As Bill and Trina look inside:

CUT TO:

41. INT. IRA'S SHACK

CLOSE SHOT

of Ira reading. Over this the voice of Bill.

Continued—[182]

41. CONTINUED

BILL'S VOICE

What's the good word, Ira?

Ira looks up, squints at the figures in the doorway and rises picking up the book as he does so.

42. MEDIUM SHOT

Shooting past Bill and Trina in doorway, toward Ira as he reads aloud from the book.

IRA

(reading)

"And seeing the multitudes He went up into the mountain and His disciples came unto Him and He taught them, saying: Blessed are the poor in spirit, for theirs is the Kingdom of Heaven."

(he looks up)

That's the good word.

43. CLOSE SHOT

Toward Bill and Trina in doorway.

BILL

That looks like that Gideon Bible I swiped out of a hotel last week.

44. CLOSE SHOT

Ira.

IRA

Bibles can't be stolen. The good word is free. I only wish I could get you to read it, William.

45. CLOSE SHOT

Bill and Trina.

BILL

I did. I skimmed through it one night. It's kinda repetitious in spots, but there's good readin' in it. There's one place—the Songs of Solomon—great stuff!

(he turns to Trina)

Whoosits—meet Ira. He used to be a minister, but now he's a night watchman.

[183]

46. THREE SHOT

Trina and Bill and Ira. Trina curtsies. Ira smiles and bows slightly.

IRA

How do you do.

TRINA

Nicely, thank you.

BILL

Yeah, nicely—only she ain't got a place to sleep. I thought maybe after you checked out she could camp here for the night.

IRA

(simply)

Welcome.

BILL

When do you go to work?

IRA

Eleven-thirty.

47. MED. CLOSE SHOT

toward doorway.

BILL

(lighting cigarette)

O. K. She'll check in about twelve.

TRINA

I thank you from the bottom of my heart.

BILL

Nuts. Come on.

As they exit:

DISSOLVE TO:

48. EXT. RIVER BARGE

CLOSE SHOT

of the surface of the river with a path of moonlight in it. The music of the accordion comes into the scene from the shore.

A lit cigarette flicks through the air and lands in the water, going out with a sizzle. CAMERA PULLS BACK TO WIDER ANGLE showing the reflection of Trina and Bill leaning against the rail of a barge above.

[184]

49. TWO SHOT

Trina and Bill. They are at the rail of a long lumber barge. Moonlight streams down on that end of the barge but the rest of it is in inky blackness. There are no lights anywhere; the only illumination comes from the moon.

BILL

The reason I like to sleep on this barge is because there's no roof on it.

TRINA

It must be wonderful with the water
rockin' you—like a cradle, sorta.

She gazes out on the water. The expression on
her face indicates that she is supremely happy and
contented.

TRINA

Looka them ships there with the sails.
They look so kinda peaceful and contented
like . . .

BILL

(disapprovingly)

Gwan. They been lyin' here for years
rottin' away with barnacles. That's what
you get when you're anchored.

TRINA

(defensively)

Still an' all, it's restful.

BILL

Restful!

(with vast disgust)

So's a graveyard.

CAMERA PULLS BACK TO WIDER
ANGLE as he abruptly walks away out of the
section of moonlight and into the Stygian gloom of
the rear of the lumber barge. He disappears com-
pletely. Trina stares into the dark a moment.

TRINA

Where are you?

BILL'S VOICE
(from the gloom)

Here.

TRINA

Where?

[185]

50. SHOT OF DARK SCREEN

as though photographing the inky gloom that envelops the rear of the barge. The small lettering: GILSEY HOUSE COFFEE flashes on and off.

BILL'S VOICE

Here.

51. CLOSE SHOT

Trina.

TRINA

What are you doing?

52. SHOT OF DARK SCREEN

BILL'S VOICE

Takin' off my clothes.

(a pause)

53. MEDIUM SHOT

taking in Trina in the moonlight and part of the dark section of the barge.

BILL'S VOICE

I'm goin' in for a swim. Nothin' like a bath before you hit the hay.

(pause)

That's about the only thing I do regular—bathe.

TRINA

I can swim. I love to swim.

(pause)

I bet the water's cold, kinda.

In the silence that follows we hear Bill whistling an accompaniment to the tune being played by the accordion.

54. CLOSEUP

Trina. Over this, the sound of Bill's whistling. Suddenly we see Trina's eyes follow something upward.

55. LONG SHOT

toward far end of barge. Dimly we see the white, naked figure of Bill poised on the rail for an instant; then he makes a beautiful dive into the phosphorescent, moonlit water.

[186]

56. CLOSE SHOT

surface of the water as Bill comes up, spewing water.

BILL

(calling up to Trina)

Warm as milk!

(he treads water)

Come on in!

57. CLOSE SHOT

Trina.

TRINA

(frightened)

Should I?

58. CLOSE SHOT

Bill.

BILL

Want me to come up there and throw
you in?

59. CLOSE SHOT

Trina.

TRINA

No.

BILL'S VOICE

(in a definite tone of command)
Then come on in.

TRINA

(helplessly)

If I had a bathin' suit—

60. CLOSE SHOT

Bill. All this time he has been treading water.

BILL

You got one—the one you were born
with. That's the one I'm usin'.

[187]

61. CLOSE SHOT

Trina.

BILL'S VOICE

I'll give ya one minute—if you're not
in here by then, I'll come up an' throw
you in—clothes an' all.

Trina begins to undress quickly.

CUT TO:

62. EXT. DOCK

MED. LONG SHOT

of a nearby dock. We see a man's figure standing there, watching.

63. MED. CLOSE SHOT

of the man. It is Bragg. He takes a keen interest in the proceedings on the barge.

64. EXT. RIVER BARGE

CLOSE SHOT

Bill, floating, his hands moving slowly to keep himself on his back. His eyes are closed, his head thrown back. He sings or hums an accompaniment to the song of the accordion. (I suggest the song be Cielito Lindo.)

65. MEDIUM SHOT

Trina, completing her undressing, stands naked in the moonlight. The angle will be shot from the point of view of censorship so that it will suggest only beauty and in no way sex.

66. CLOSE SHOT

Bill, as he comes out of his float and treads water, looking up toward the barge.

67. TOP SHOT

of a lovely naked female figure poised on the rail of the barge, then Trina dives into the water.

68. MEDIUM SHOT

surface of the water, as Trina comes up from her dive, near Bill.

69. CLOSE SHOT

Bill and Trina in the water.

BILL

Race you.

TRINA

Where to?

BILL

To the moon.

They start swimming into the path of the moonlight.

CUT TO:

70. EXT. DOCK

CLOSE SHOT

Bragg. He watches the scene with desireful eyes.

FADE OUT.

[189]

FADE IN:

71. INT. BILL'S SHACK—DAY—CLOSE SHOT

A battered old ironing board, beside which soapy hands are vigorously scrubbing some washing.

CAMERA TRUCKS BACK and we see Trina, her sleeves rolled up, an apron around her dress, sweating, engaged in washing clothes. She is busy as a bee, attacking the washing with a ferocity that is almost comic. This is a characteristic of Trina that we will emphasize throughout the play. She

is hardly ever seen hereafter without being engaged in housework of some kind or other, and whatever she does she does with a terrific energy.

The shack itself is pathetically primitive, with evidences here and there of Trina's handiwork in her efforts to brighten the place and make it more homelike. A cot, a couple of steamer chairs, a rough deal table, a rigged up clothes-line with some washing hung on it—these are the principal items of furnishings in the shack. There is one other—a stove. It is a battered, an ancient, a disreputable looking thing—a patchwork of other stoves—the sort of stove that would be the despair of any good housewife.

Up to the open door of the shack comes Flossie, with hang-over written all over her.

72. CLOSE SHOT

At door as Flossie comes in and stares blearily at the furiously energetic Trina. An expression of owlsh despair comes across Flossie's face as she watches Trina for a moment in silence.

FLOSSIE

'Lo, Trina.

73. MED. SHOT

Trina looks up, blows away a strand of hair which has gotten into her eyes and greets Flossie without stopping work.

TRINA

Hello, Flossie.

Flossie comes into the shack. Trina continues working. Flossie squats near the stove and lights a cigarette from its embers. Having done this, she takes a seat and

Continued—[190]

73. CONTINUED

gloomily continues to watch Trina, who scrubs frantically. The sight of so much household energy seems to cause Flossie growing dismay.

FLOSSIE

(finally, with a note of querulous irritation in her voice)

Where d'you get all that energy from?
Every time I see you, you're workin'.

TRINA

I was outa work for a whole year.

(scrub, scrub)

Makin' up for lost time, I guess.

(scrub, scrub)

This kinda work's not real work. It's fun.
You're the only woman I ever knew who
had seven wash days a week.

TRINA

Bill's particular.

(scrub, scrub)

Anything that goes next to his skin's
gotta be clean—

(scrub, scrub)

I guess he's the cleanest man in the world.

(scrub, scrub)

One o' these days maybe Bill'll get me a washin' machine. But that ain't so important just yet . . . The main thing's a stove.

(she looks up proudly)

Bill's goin' to get me a real stove.

74. CLOSE SHOT

Flossie.

FLOSSIE

(pause)

I'd like to see some man offer me a stove.
I'd tell him where to put it.

What's the matter with the one you got?

[191]

75. CLOSE SHOT

Trina, scrubbing.

TRINA

You can only make stew on it. I could cook Bill some wonderful things if I had a real stove. An' he's gonna get me one, too.

CONTINUATION SCENE 74:

FLOSSIE

(skeptically)

When?

TRINA'S VOICE

Pretty soon. Soon's he gets the money.

FLOSSIE

Whoever heard of a bindlestiff gettin' money!

76. TWO SHOT

Trina stops scrubbing and wipes her brow with her sleeve.

TRINA

What's a bindlestiff?

FLOSSIE

A 'bo with ants in his pants—can't stay put—except maybe in jail.

TRINA

(indignantly)

Bill can make all the money he wants—if he wants to. An' he's no bindlestiff. He's got personality, Bill has. He's different.

FLOSSIE

If he was different would he keep you here in a dump like this?

Continued—[192]

76. CONTINUED

TRINA

What's the matter with you, Flossie? How can you say things like that? This ain't a dump. Not to me, it ain't. It's—it's a sorta—I can't find the word . . . You know them things they got in the middle o' the streets—where people can stay till the traffic's safe?—wha-dya-call-'em?

FLOSSIE

Safety zones.

77. CLOSE SHOT

Trina.

TRINA

That's it. That's how I feel about this place—like a sort of clearin' in the forest—quiet an' safe an' peaceful . . .

Into the shot suddenly comes the brazen call of a train whistle. The sound causes a spasm of fear and hate to flash across Trina's face.

78. TWO SHOT

Trina's voice is hard as she continues:

TRINA

That's the only thing I don't like—them train whistles. They plague the life outa you, night an' day.

FLOSSIE

(looking up toward the roof of the shack)

What's that?

As Trina looks up—

INSERT: CLOSE SHOT

Section of roof. A space about three feet square has been cut in the roof of the shack, directly over the cot. There is a sliding trap door arrangement which is operated by a rope so that the space can be opened and closed at will by anybody below.

Continued—[193]

78. CONTINUED
BACK TO SCENE

TRINA

Oh, that. That was Bill's idea. He's an outdoor man, he is. He can't stand to sleep under a roof.

FLOSSIE

It's all right for him—but how about you? The drafts here are sumptin' awful. You'll catch a cold sure. I've had one ever since I been here.

(she pauses, sniffing)

You don't happen to have anything good for a cold? Scotch, or Bourbon, or even gin?

TRINA

No.

FLOSSIE

(disgusted; getting up from her seat)

Does that guy give you *anything*?

TRINA

(flares up)

He gives me everything! Everything anybody would want.

FLOSSIE

Except maybe a stove.

Trina goes over to the dilapidated, makeshift stove and stares at it.

79. CLOSEUP

Trina, as she stares at the stove.

INSERT: CLOSE SHOT

Of the stove.

DISSOLVE TO

80. INT. HARDWARE STORE ON SIXTH AVENUE—DAY—CLOSE SHOT

Of a stove—an ornate specimen full of gleaming color and yclept “Queen of the Kitchen.”

Continued [194]

80. CONTINUED

CAMERA PANS from the stove past other stoves and hardware and around to the plate glass window of the store, against which we see the flattened face of Trina. She is staring at the particular stove much as though it were an altar and she were worshipping. The expression in her eyes indicates that she is looking at something which is much too good for her.

CAMERA DRAWS BACK TO WIDER ANGLE, taking in more of the display window and pedestrians passing back and forth outside. The periodic roar of the elevated will be heard throughout this scene in addition to other appropriate street noises.

Suddenly Bill comes along, sees Trina and comes up behind her. There is a grin on his face at the prospect of surprising her. He looks into the window to see what she is so engrossed with and a frown comes on his face when he notices the subject of her rapt scrutiny. He says something which we cannot hear on account of the window glass. She starts, turns and replies, also inaudibly because of the intervening window.

CUT TO:

81. EXT. HARDWARE STORE—MED. CLOSE SHOT

Shooting past Bill and Trina into window.

BILL

What're you doin' here?

TRINA

I was just sorta admirin' that stove.

(she points to the particular one)

That one.

(pause)

It's beautiful, ain't it? An' cheap. Only five dollars.

Bill grunts with surprise, and she adds hastily:

TRINA

Five dollars down, that is, an' only two dollars a month for only twelve months—
an' no interest.

BILL

And no interest's right, as far's I'm concerned. I don't go for anything on the installment plan.

[195]

82. REVERSE SHOT

With passersby b.g.

TRINA

(dreamily)

In only a year the stove'd be ours . . .

BILL

A year? You think I'm gonna hang around this town a year? I never play any town more'n thirty days. I been hangin' around here too long, as it is.

TRINA

(dreamily)

It's such a beautiful, all-around kind of a stove . . .

BILL

Forget it.

TRINA

But of course, we can start with one of the smaller ones . . . They got one you can get by payin' only two dollars down an' only a dollar a month.

BILL

Forget it. G'wan home

She hesitates, then turns and starts off.

83. MED. SHOT

Of the two, with shopwindow b.g.

BILL

What's for supper tonight?

TRINA

Stew.

She pauses with a half glance toward the window.

BILL

Gahn home.

She comes over and beckons to him as though to whisper something into his ear. He bends down but instead of whispering she kisses him, with people passing right by paying no attention whatever. Having kissed Bill, Trina turns and walks away. He stares after her, the severity

Continued—[196]

83. CONTINUED

of his face melting in a puzzled smile; then he shakes his head, scratching the back of his head abstractedly. He turns and looks at the stove, then digs into his pocket and brings out a few silver coins which he stares at. Then he looks out at the stream of people passing to and fro. He recognizes somebody and sends out a hail.

BILL

Hey—Bragg!

84. MED. SHOT

Toward street. Bragg is seen among a number of passing pedestrians. He stops. PAN WITH HIM as he comes over to Bill.

BILL

I been lookin' for you. How about that two bucks you owe me?

BRAGG

What're you houndin' me for? It's only a week since—

BILL

(interrupts)

I'm no Flossie. It don't pay to stall me.

85. CLOSE SHOT

Of the two. Pedestrians b.g.

BRAGG

Stall you? I been workin' my head off
tryin' to get dough to pay you off.

(with a martyred look)

Why, I'm workin' right now.

BILL

You don't look it. What kind o' work?

BRAGG

Servin' a summons. What I mean is—
tryin' to serve a summons. You get two
bucks a throw, but this one's so tough
there's a bonus goes with it. Ten bucks
for this one.

BILL

Well, why don't you serve it an' get your
money?

[197]

86. MED. CLOSE SHOT

Favoring Bragg.

BRAGG

Why don't I? What d'you suppose I
been tryin' to do for three days? It's for
a dame in a show. You can't get to her.

BILL

What d'you mean you can't get to her?

BRAGG

She's got a bodyguard.

BILL

What d'you have to do with a summons?

BRAGG

Just hand it to the party it's made out for.

BILL

Lemme see it.

Bragg takes the summons out of his pocket and hands it to Bill, who looks at it.

87. REVERSE ANGLE

Favoring Bill.

BILL

An' for handin' this hunk o' paper to a dame you get ten bucks?

BRAGG

Cash.

BILL

An' you can't do it?

BRAGG

I'm not the only one. I'm the third guy that's tried this week.

BILL

(thoughtfully)

Ten bucks, huh . . . Suppose I serve this summons for you? I could use five bucks. Willya split?

Continued—[198]

87. CONTINUED

BRAGG

I'm tellin' you, it's impossible to get to her. She's got a bunch o' gorillas with her day an' night.

BILL

Willya split?

BRAGG

Sure. But you can't get to her.

Bill looks at the piece of paper in his hands.

INSERT: CLOSEUP

Summons, appropriately made out, to be served on one Miss Fay La Rue. IRIS DOWN to that section of the insert referring to Miss La Rue . . .

DISSOLVE TO:

88. EXT. FRONT OF THEATER MARQUEE—
DAY—MED. CLOSE SHOT

The electric lights—unlit—spell out:

FAY LA RUE

in

Revue of Revues

DISSOLVE TO:

89 to 94. INT. THEATER—SHOTS OF STAGE
SHOW

Opening with a full shot of the stage. Part of the Revue is being enacted. A couple of comics are doing their stuff with a chorus b.g. doing a typical Busby Berkeley number. Orchestra music comes

over the shots. (Note: For this routine, I suggest we get a couple of real musical comedy comics and do a fragment of a real musical show. Or perhaps we can find some desirable stock stuff to serve the purpose—which is merely to introduce part of the show that Miss La Rue is in.)

At the conclusion of the number the comics and chorus exit as CAMERA DRAWS BACK to take in the audience applauding.

95. CLOSE SHOT

Orchestra, as they go into a new number.

[199]

96. FULL SHOT

Of stage, which darkens. A spotlight hits the wings and out comes Fay La Rue with a typical Eva Tanguay entrance and dressed in the most revealing costume possible. She goes into a number which will have to be especially written for this purpose, the nature of the song being definitely part of the scene. The title of the song is: "What Have You Got For Me?"

97. MOVING SHOT

With La Rue as she struts about the now empty stage, shrouded in darkness except for the spotlight which follows her, and sings the verse of the song—at the conclusion of which she stops at stage box left and addresses the first chorus of her song to the occupant of that particular stage box.

CAMERA SWINGS AROUND to CLOSE SHOT OF STAGE BOX, where a plump elderly gentleman is seated with a party. He beams and

colors with embarrassment at the fact that he has been selected by Miss La Rue for the signal honor of having the song directed at him. The song is exceedingly Frenchy and the embarrassment of the plumpish gentleman increases.

INTERCUT:

98. CLOSE SHOT

Of La Rue, singing the chorus and registering the appropriate emotions.

99. MED. SHOT

Section of audience, smiling at the embarrassment of the plumpish gent.

100. MOVING SHOT

With La Rue, as she concludes her song and starts the second chorus, strutting over to the extreme right of the stage with spotlight following her. Having successfully embarrassed the occupant of stage box left, she now goes through the same procedure with the occupant of stage box right, attempting in voice and manner to top the effect of the first chorus. She is the embodiment of seduction as she coos her song.

Continued—[200]

100. CONTINUED

CAMERA SWINGS AROUND TO CLOSE SHOT of the occupant of stage box right. It is Bill.

INTERCUT WITH:

101. CLOSE SHOT

Of La Rue, singing.

CONTINUATION SCENE 100:

Bill waits for the conclusion of the chorus, which contains the line: "What have you got for me?"—upon which he rises and says:

BILL

Sumpin'—

102. CLOSE UP

La Rue, taken aback at this unexpected response.

103. MED. SHOT

As Bill climbs over the stage box and leaps onto the stage.

104. AUDIENCE SHOT

There is laughter and applause from the audience, who think that perhaps this is part of the show.

105. CLOSE SHOT

Members of the orchestra, their expressions revealing that this is certainly not on the program.

106. TWO SHOT

Bill and La Rue, as he faces her on the stage, taking the summons out of his pocket.

BILL

Here's what I got for you.

He hands the summons to the amazed La Rue, who is so startled at this unexpected development that she accepts it. The music has stopped now.

107. MED. SHOT

In wings. Two or three hard-looking gents are standing in the f.g., with actors, chorus girls, stage hands and the like b.g. The expression on the faces of the muggs indicate they are just as much surprised by this development as anybody else.

108. TWO SHOT

Bill and La Rue, as Bill explains:

BILL

A summons.

(he indicates the audience with a sweeping gesture)

An' you can't say I ain't got witnesses.
The show's swell. I'm gonna thank the
lawyer for gettin' me tickets.

With a genial wave of his hand he turns and starts off the stage toward the wings, CAMERA PANNING WITH HIM.

109. MED. CLOSE SHOT

In wings, as the bodyguards of Miss La Rue bar Bill's way. One of the tough muggs sticks his face close to Bill's and demands:

MUGG

Where d'yuh think you're goin'?

BILL

(in a deceptively mild voice)

I think I'm gonna collect five bucks for servin' that summons.

ONE OF THE OTHER MUGGS

I think you're gonna need it for hospital expenses.

He gives Bill a short, wicked jab in the face and Bill leaps into action.

110 to 116. SHOTS OF FIGHT

We stage a beautiful fight in which Bill gives an extraordinarily good account of himself. As La Rue rushes off the stage into the wings, Bill knocks one of the mugs into a group of chorus girls who shriek as they try to get out of the way. Stage hands leap into battle and a

Continued [202]

110 to 116. CONTINUED

near riot develops backstage, with Bill fighting like an inspired warrior, enjoying himself immensely, knocking people over and getting slugged himself, while the surrounding scenery is wrecked.

INTERCUT shots of the curtain being rung down while the shrieks of the chorus girls penetrate to the audience out front.

At the high point of the fight:

DISSOLVE TO:

117. INT. BILL'S SHACK—DAY—MED. SHOT

Trina busy at the forlorn, makeshift stove, working on a stew. Here, as always when we see Trina at home, she is as busy as four people. Little beads of perspiration on her forehead from the heat of the stove. She always exudes an anxious aura when she is cooking, she is so terribly eager to have the results worthy of Bill.

Bill enters through door b.g. She hears him come in, stops and, as he walks over to the table, she comes and kisses him absently, her mind on the stew. Bill notices on the table a copy of a bible and looks at it suspiciously.

BILL

What's this?

TRINA

That? Oh, Ira gave it to me.

(she goes back to the stew)

He wants me to read it when I got nothin' else to do.

She adds pepper to the stew, worrying about the flavor. As she does so, Bill sits on the edge of the table and picks up the bible, ruffling through it with his fingers.

BILL

There's one thing in here you don't wanna miss . . .

TRINA

I do wish I had some kind of a stove.

BILL

(reads from the bible idly)

"The song of songs which is Solomon's . . ." Get this . . . "Thy cheeks are comely with rows of jewels."

Continued [203]

117. CONTINUED

TRINA

It's hard to cook with this kind of a fire—

BILL

(reads)

“Behold, thou art fair, my love . . .

Thy lips are like a thread of scarlet.”

TRINA

You can't get an even heat.

118. CLOSE SHOT

Bill reading.

BILL

“Thy neck is a tower of ivory, thy breasts are like clusters of grapes. How fair and how pleasant thou art, oh love, for delights.”

He closes the book and throws it on the table, staring morosely at Trina.

119. CLOSE SHOT

Trina, as she dabs her finger into the stew and licks the end of it, a worried expression on her face.

CONTINUATION OF SCENE 118

(Close Shot of Bill)

BILL

(explosively)

You're a heck of a lookin' woman for a man like me.

120. MED. CLOSE SHOT TRINA

Trina, accustomed to this sort of thing, is not greatly alarmed.

TRINA

Uh-huh. I don't know if this is goin' to be very good stew . . .

Continued [204]

120. CONTINUED

BILL

(coming into scene to her)

Look at you! Skinny—no thighs—no hips—

(he slaps her on the fanny)

No nothin'!

TRINA

I bet you I put the potatoes in too soon.

CAMERA PULLS BACK TO WIDER ANGLE as Bill sits on a nearby chair and continues.

BILL

A man like me oughta have a woman who's a woman—a woman who's got some-thin' a man can get hold of.

TRINA

(nods her head)

Yes, sir, that's just what I did—put the potatoes in too soon.

BILL

Who wants to grab hold of a lotta bones? That's all you are—bones. Did you know that?

TRINA
(absently)

Well . . . I'm young, kinda . . .
She is too busy with the stew to even turn around.

BILL
That don't make no difference.

TRINA
Maybe it does. Maybe I'll sorta fill
out—after.

BILL
Nope. You'll never look like a woman.
It ain't in you to ever look like one.

TRINA
What difference does it make, as long's
you're good to me?

Continued [205]

120. CONTINUED

BILL
Huh! I'm not good to you. Don't get
that idea in your head. That's the way to
spoil 'em—bein' good to 'em. You've gotta
step around if you wanta stay with me—
or get your teeth knocked out.

(pause)

Huh! I oughta knock 'em out anyway.

121. CLOSE SHOT

Trina. She stirs the stew violently, wiping the
sweat off her brow with her sleeve. Over this the
voice of Bill—

BILL'S VOICE

Come here!

She turns, but without taking her eyes off the stew.

122. MED. TWO SHOT

As Trina, still looking backward at the stew, obediently comes over to where Bill is seated nearby.

TRINA

You need tomatoes to get the taste . . .

He reaches forward, grabs her hand and yanks her down on her knees before him. She looks up at him and for the first time notices the signs of slight bruises on his face, and an expression of terror comes over her own face as she sees the evidence of his fight.

TRINA

Bill! What happened to your face?

BILL

Never mind my face. Look at my neck!
(he points to his neck)

See those red spots? Know where they come from?

(he jams her head back in the crook of his arm and raises his fist as though to strike her—then lays it gently to her cheek)

Li'l old Whoosits.

She stares at him a moment, then impulsively, forgetting the stew and everything else, she reaches up skinny, hungry arms and glues her lips to his in a kiss which is strikingly, outrageously in contrast to her general mousey, tinid behavior.

123. CLOSE SHOT

Of the two. Bill is amazed at the ferocity of the kiss and finally yanks her lips away from his and stares at her with wonder.

BILL

You women get some phony ideas, all right.

124. WIDER ANGLE

As he yanks her to her feet.

BILL

Come on—get to work! And if that stew's burnt I'll pour it down your back.

She returns to the stove and resumes her fussing with the stew. He watches her a moment, then he turns and on tiptoes sneaks out of the shack, CAMERA PANNING WITH HIM TO DOOR. Hold on entrance to shack. An instant later Bill comes in, carrying the stove. In the same tiptoe fashion he manages to bring the stove into the shack and set it down. PAN BACK to Trina as, turning for something, she sees the stove and stops.

125. CLOSE SHOT

Trina, as she stares open-mouthed at the beautiful new stove.

126. MED. CLOSE SHOT

At stove, as Trina comes into scene and looks from the stove to Bill. She sinks to her knees, in front of the stove, touching it to see if it is real.

He looks down at her with an indulgent grin on his face, half ashamed of the emotion that her reaction is causing him. Trina's feeling is too great for words. She almost caresses the stove, as we

FADE OUT

[207]

FADE IN:

127. EXT. SIDE STREET OFF BROADWAY—
MORNING MEDIUM SHOT

A group of street gamins, perhaps interspersed with one or two adults of the idle, kibitzing type, are clustered around a pair of spangled legs draped over the side of an automobile. The kids are all looking upward, as are the adult kibitzers, and passersby also throw curious glances upward.

CAMERA PANS UPWARD to show Bill in an Uncle Sam ballyhoo outfit and on stilts, seated on the top of a parked Ford coupe. Traffic is passing b.g. The length of Bill's stilts enables him to sit on the top of the car in perfect comfort, his stilted legs resting on the pavement below. On front and back he carries the advertisement of his ballyhoo, which I suggest should be a theatre advertisement—if possible tying up with some other Columbia picture which will be playing about that time.

128. REVERSE ANGLE

shooting from an elevation behind Bill down toward the group of kids and passersby, all staring upward, Bill's head and shoulders are slightly bent over something upon which he is writing.

129. CLOSEUP

Bill, busily engaged in writing with an indelible pencil upon a baseball.

INSERT: CLOSEUP

Baseball, as Bill's hand completes the following partly written inscription:

To my pal. Joey
from Babe Ruth

130. MED. CLOSE SHOT

Bill, as, having completed this, he sticks the pencil into a side pocket and stands erect, CAMERA DRAWING BACK to FULL SHOT as he does so. He towers fully fifteen feet in the air as he stands upright and, baseball in hand, begins the measured, stilted walk down the side street.

CAMERA TRUCKS AFTER HIM as he walks along followed by the kids, who troop after him in a manner which indicates that wherever he goes he has his train of juvenile admirers.

[208]

131. CLOSE SHOT

Bill, as he walks along, looking down on passers-by stunted by his side.

132. TRUCKING SHOT

from Bill's viewpoint, as though CAMERA were Bill looking down on the passing throng from a fifteen foot height.

133. MEDIUM SHOT

featuring a shabby brownstone building as Bill comes into scene and pauses before it. It is sandwiched in between two other buildings devoted to business purposes—one of the fast disappearing brownstone fronts on the west side of New York in the Forties. As Bill pauses before the building the second floor windows are on a level with his head and shoulders. The group of children dutifully pause with him. Through an open second-story window Bill looks in and sees:

134. INT. ROOM IN BROWNSTONE
MEDIUM SHOT

shooting past Bill's head at window, into room. It is a drab living-room, reeking of genteel poverty—part of a small flat consisting probably of a living room, bedroom and perhaps kitchenette and bath. The other rooms are not seen but are merely suggested by the set.

135. CLOSE SHOT—REVERSE ANGLE

Shooting out through window toward Bill looking in. He purses his lips and emits a piercing whistle.

136. FULL SHOT

of room. Out of the adjoining bedroom hobbles "the kid"—a boy of about eight with the pinched, haggard face of an incurable cripple. One of his legs is in a brace. The kid's face lights up joyously as he recognizes Bill in the opening of the window.

BILL

Hello, Mugg.

KID

(hobbling forward eagerly)

Hello, Stilts! Gee—I thought you died
or somethin'. Where you been?

[209]

137. MED. CLOSE SHOT

at window as the kid hobbles into scene.

BILL

Where're the Yanks playin' this week?

KID

Chicago.

BILL

All right. You wanted Babe Ruth to
autograph a baseball for you, didn't you?

The kid nods eagerly.

BILL

And I hadta put it up to him, didn't I?

KID

(tremulously)

Did he—did he—

BILL

He sure did.

He reaches into the window and hands the baseball to the kid. The kid takes the baseball and stares at it, reading the writing on the ball with an expression of reverent, almost incredible awe in his eyes.

138. CLOSE SHOT

Kid.

KID

Gee, Stilts! Gee!

(he stares at the baseball)

Gee!

139. TWO SHOT

BILL

I hadta go all the way to Chicago to see the Babe.

KID

Gee, Stilts. thanks! Did you hop a freight?

BILL

Rode the rods all the way. Ain't got the cinders outa my hair yet.

Continued [210]

139. CONTINUED

KID

Gee! Thanks!

(he looks at the writing on the baseball
and points to it)

And the Babe wrote this hisself?

BILL

In person!

140. FULL SHOT

of room, as the kid's mother enters from the kitchen. She is a Bertha Mann type: a middle-aged woman who somehow suggests the shabby,

genteel poverty of the flat—a pale and beaten creature. The kid joyfully holds aloft his precious trophy as he sees his mother.

KID

Look, maw—look! The baseball Stilts promised me! With Babe Ruth's autographed. He signed it hisself. Stilts went all the way to Chicago t'get it!

(he stares at the ball, still refusing to believe it's true)

Gee!

He throws the ball and stumps pathetically after it, but manages to catch it as his mother goes to the window.

141. MED. CLOSE SHOT
at window.

THE MOTHER

(smiling)

Good morning.

BILL

Hi.

THE MOTHER

We missed you. Have you really been West?

BILL

(with an elaborate wink, and jerking his thumb toward the boy who is throwing the ball up)

Only west of Eighth Avenue. That was just a stall for the kid. I'm glad you're home. I wanted to see you.

He digs into his pocket and takes out a green-back, extending it through the window.

Continued [211]

141. CONTINUED

BILL

Here.

She hesitates, then takes the money.

142. CLOSE SHOT

of the Mother.

THE MOTHER

(slowly)

How can I go on taking money from you when I don't even know who you are?

143. CLOSE SHOT

Bill.

BILL

What difference does it make? I got no use for money. You need it. It's just a case of supply and demand.

144. TWO SHOT

favoring mother.

THE MOTHER

Why won't you tell me your name?

BILL

I never asked you yours, did I?

THE MOTHER

No.

BILL

I got no use for names.

THE MOTHER

Whoever you are, God bless you.

145. TWO SHOT

favoring Bill.

BILL

If you pull any o' that I'll stay away from here.

(he pauses)

As a matter of fact, I'm goin' to stay away a while anyway.

(disgustedly)

Beginnin' to feel like a native around here. I'm blowing town.

Continued [212]

145. CONTINUED

THE MOTHER

(her face falls)

For good?

BILL

Good or bad, who knows?

THE MOTHER

Where are you going?

BILL

That depends on which freight I hop.

146. ANOTHER ANGLE

on the two.

THE MOTHER

(hesitantly)

You don't like me to thank you, but I—I—

BILL
(roughly)

Aw, forget it.

(he leans on the sill and continues
earnestly)

Only, get this—I been slippin' you chicken feed. But I might get hot in a crap game some night an' clean up. An' when I do, I'll send you a heavy chunk o' dough some fine morning. Then you pack up and get outa here. Take that kid to the country. Maybe he can't hop freights, but anyway he can see 'em go by.

(He pauses)

That's better'n nothin', ain't it?

The twitching lips of the woman disconcert him.

BILL

So long!

He turns and exits out of the shot.

147. CLOSEUP

of the mother, her eyes wet as she holds the money in her hand and looks after Bill.

[213]

148. MED. FULL SHOT

of room. The kid is playing with the ball. He catches it, realizes that Stilts is no longer at the window and comes over to his mother.

THE KID

What became of Stilts, Ma?

THE MOTHER

He's gone.

She puts her arms around the frail shoulders of the kid, as

CUT TO:

149. EXT. STREET AND MUSIC PUBLISHER'S OFFICE—MEDIUM MOVING SHOT

with Bill, as he walks along the street followed by kids who swarm like bees at his feet. The sound of a piano and singing comes into the shot as Bill approaches a music publisher's office—one of the many on this street, which is Tin Pan Alley.

CUT:

150. CLOSE SHOT

Bill. He recognizes the singer's voice as that of Fay La Rue, and stops, looking around to see where the voice is coming from.

CUT TO:

151. INT. MUSIC PUBLISHER'S OFFICE
MEDIUM SHOT

The office is on the second floor of a reconstructed brownstone building and has the name of the firm on the windows. Fay La Rue, smartly attired, is standing in a glass-partitioned section, concluding a song which she has been trying out. A gent is seated at the piano, a cigarette drooping from his lips as he pounds out the accompaniment.

Having finished, Fay wanders away from the piano and over to the open window of the office, CAMERA PANNING WITH HER. She lights a cigarette as she stands idly looking down at traffic on the street below.

CUT TO:

[214]

152. EXT. MUSIC PUBLISHER'S OFFICE—AT WINDOW—CLOSE SHOT

Fay at window. Back of her, in the small, glass-partitioned office, the gent at the piano is starting another number for three girls who begin singing a la Brock Sisters, while a hoofer tentatively goes through a routine of the same number. All of this will be used for background against which window shots will be played—the song continuing throughout the balance of the scene.

Fay, looking out through window, suddenly sees something which causes her face to light up.

153. MEDIUM SHOT—REVERSE ANGLE

Shooting out past Fay in window, as Bill comes into scene. He stops, as he recognizes Fay, then continues on his way again.

FAY
(calling)

Hey, you!

154. MED. CLOSE SHOT

Bill, as he turns, hearing Fay's call.

FAY'S VOICE

Big boy!

Bill comes over to the window. CAMERA PANNING WITH HIM.

155. TWO SHOT

shooting past Bill at window, toward Fay.

FAY
(smiling)

Got any more summonses for me?

BILL

(with an answering grin)

Not today.

FAY

D'you know, I called up the lawyers' office and left word I wanted to see the man who served those papers on me?

BILL

Yeah.

Continued [215]

155. CONTINUED

FAY

They sent somebody named Bragg. I asked him to get in touch with you. Did he?

BILL

Yeah.

FAY

Why didn't you look me up?

BILL

I was busy.

FAY

What doing? Stilt walking?

(she pauses, and looks over his get-up)

What's the idea of the ballyhoo rig?

156. CLOSE SHOT

toward Bill, as he leans his elbows on the sill of the window.

BILL

Well, y'see, lady, it's like this—there's a hardware store on Sixth Avenue sold a friend o' mine a stove last month on the installment plan. And today's the first o' the month. I get a dollar an hour for this particular brand of street walkin'. I need two bucks, so I put in two hours.

(pauses)

Now would you like to hear the story of my life?

157. CLOSE SHOT

toward Fay.

FAY

(amused)

Yes. I would.

(she continues slowly, with a look of bold appraisal)

And I got an idea you and I ought to have some sort of relations . . .

[216]

158. TWO SHOT

A quick, inquiring look from Bill, and she adds provocatively—

FAY

Business relations.

(she pauses)

What're you doing this afternoon?

BILL

Anything that appeals to me.

FAY

I'm in suite 1232 at the Towers.

She blows smoke from her cigarette, deliberately turns her back on him and walks into the inner office, joining the group at the piano. As Bill stares after her, puzzled,

DISSOLVE TO:

159. EXT. VAG. ENCAMPMENT—DAY
MOVING SHOT

with Bragg, as he walks along past several shacks. He comes to Bill's shack, pauses at the door, looks in and sees:

CUT TO:

160. INT. BILL'S SHACK
MEDIUM SHOT

Trina has her back turned to the door. She is busy rigging up a home-made set of scrim curtains for the single wall aperture of the shack which serves as a window. She has no shades or rollers, so she is tacking the stuff up. She is completely engrossed in her work. Bragg enters shot as he comes up behind her.

BRAGG

Where's Bill?

Trina turns quickly.

161. CLOSE SHOT

Trina, as she sees who it is and the expression on her face reveals an instant repugnance. She goes right back to her tacking.

TRINA

Out somewhere.

(tack, tack)

BRAGG'S VOICE

Where?

Continued [217]

161. CONTINUED

TRINA

I don't know.

(tack tack)

162. TWO SHOT

BRAGG

(his glance at Trina's form frankly the unveiling sort)

If I had a cookie like you in my shack I'd be home all the time. The trouble with Bill, he don't appreciate you.

Trina's only reply is the tack tack of the hammer. He continues:

BRAGG

(sarcastic)

That's some man you got yourself, kid.

TRINA

(without turning)

Suits me.

BRAGG

Yeah. But d'you suit him? . . .
This brings her around, as he continues:

BRAGG

You wouldn't think so from the way he's
always playin' you down—crabbin' how
skinny you are.

TRINA

Well, I *am* skinny.

BRAGG

No, you're not.

(there is a note of caress in his voice)

Slim, but not skinny. I know what I'm
talkin' about.

163. CLOSE SHOT

Bragg, as he continues:

BRAGG

I remember th' first night you came
here—when you took a swim off th' barge.
I watched you from the dock.

[218]

164. CLOSE SHOT

Trina, as she flares up.

TRINA

You better not let Bill find that out. He's
got a temper, Bill has, and he's liable to
break you in half—right smack in half.

165. TWO SHOT

BRAGG

Oh, no, he wouldn't. Bill's too busy.

TRINA

Busy with what?

BRAGG

All I know is there's a blonde in a show on Broadway that's been on his trail lately.

TRINA

Well, what about it?

BRAGG

You don't care if he steps out with other women?

TRINA

He can go out with forty women if he wants to—I got him.

(she adds hastily)

Not that I believe you. Bill's no cheat. If he wanted anybody else, he'd tell me first.

BRAGG

Well, if he ever does . . . you know where I'm at.

TRINA

You!

(with a disgusted grimace)

F-f-f! Even if I never knew Bill—even if you were the only one left in the world—you couldn't get near me—

(defiantly)

How d'ya like that?

166. CLOSE SHOT

Bragg.

BRAGG

Swell! It gives me somethin' to work for. Different men work different ways. Me, I got one principle. Take your time.

[219]

167. TWO SHOT

TRINA

I don't want to listen to you any more.

BRAGG

(looks at her with a loathesome yearning
in his eyes)

You looked fetchin' all right, that night on the barge. I ain't been able to get you outa my mind since. Even in my sleep I keep dreamin' about it, over an' over.

(slowly)

You ain't skinny. You're just slim, an' white, an' curvy all over.

TRINA

(frightened, and stepping away from his
gaze)

Get outa here, Bragg—and *stay* out.

BRAGG

Sure. There's no hurry . . .

He turns and exits.

168. CLOSE SHOT

Trina. She stands undecided a moment, trying to overcome the vague feeling of terror she has, then turns resolutely and resumes tacking up the curtains. CAMERA PANS SLIGHTLY to center on the crude window. Through the window we can see that it is starting to rain.

DISSOLVE TO:

169. INT. LIVING ROOM OF FAY'S HOTEL APT.
—DAY—CLOSE SHOT

Featuring another window, hung with rich drapes. large drops of rain are splashing on the window. Fay's voice is heard:

FAY'S VOICE

So when you served that paper on me, you let me in for a suit for ten thousand smackers for alienation of affections.

As she talks CAMERA PANS from window to take in Fay, seated in a deep, easy chair, talking to Bill who is comfortably relaxed on one end of a divan opposite her. The room is part of a modernistic, candy box of a suite, costly and luxurious. Bill is now in his ordinary street clothes and Fay in a clinging, rather sheer afternoon dress. Between the chair and the divan is a taboret with liquor and glasses and the like, and it is obvious that both Fay and Bill have had several drinks. During the course of the scene perhaps Bill will have several drinks more.

Continued [220]

169. CONTINUED

BILL

Well, what d'you want to go around alienating affections for?

FAY

The guy angeled my show. You can't raise backing without some kind of an I. O. U.

170. CLOSE SHOT

Bill.

BILL

What d'you want outa me—more backing?

171. CLOSE SHOT

Fay, from Bill's point of view. Her face is indistinct and hazy behind a cloud of cigarette smoke.

FAY

No. You're not the angel type.

BILL'S VOICE

Well, then, what's the party for?

FAY

(the smoke clears away as she leans forward)

To get acquainted.

172. MED. TWO SHOT

as Fay continues:

FAY

You showed up those three little Fauntleroy's that were supposed to keep process servers away from me. I gave 'em the air.

(she relaxes back in her seat)

I'm in the market for a new bodyguard.

Bill's once-over of her is as deliberate as her own regard of him.

BILL

You don't need no bodyguard. You look like you can take care of yourself, all right.

FAY

I always have . . .

Continued [221]

172. CONTINUED

She rises, comes over to the divan and curls up on the opposite end.

173. CLOSER SHOT

of the two. She looks toward the window.

FAY

It's raining—there's no matinee today—and you don't have to be afraid of me. . . . Honest, I've got nothing up my sleeve.

BILL

Nothin' I haven't seen.

FAY

How old are you, honey?

169. CONTINUED

BILL

Well, what d'you want to go around alienating affections for?

FAY

The guy angeled my show. You can't raise backing without some kind of an I. O. U.

170. CLOSE SHOT

Bill.

BILL

What d'you want outa me—more backing?

171. CLOSE SHOT

Fay, from Bill's point of view. Her face is indistinct and hazy behind a cloud of cigarette smoke.

FAY

No. You're not the angel type.

BILL'S VOICE

Well, then, what's the party for?

FAY

(the smoke clears away as she leans forward)

To get acquainted.

172. MED. TWO SHOT

as Fay continues:

FAY

You showed up those three little Fauntleroys that were supposed to keep process servers away from me. I gave 'em the air.

(she relaxes back in her seat)

I'm in the market for a new bodyguard.

Bill's once-over of her is as deliberate as her own regard of him.

BILL

You don't need no bodyguard. You look like you can take care of yourself, all right.

FAY

I always have . . .

Continued [221]

172. CONTINUED

She rises, comes over to the divan and curls up on the opposite end.

173. CLOSER SHOT

of the two. She looks toward the window.

FAY

It's raining—there's no matinee today—and you don't have to be afraid of me. . . . Honest, I've got nothing up my sleeve.

BILL

Nothin' I haven't seen.

FAY

How old are you, honey?

BILL

Old enough to know better.
She edges nearer to him on the divan.

FAY

Listen . . . I figure maybe I'm not going
to be around when that suit against me
comes up. I got a chance to go to London.

174. TWO SHOT

favoring Bill.

BILL

(disgustedly)

London! You might as well stay home.
Italy—that's the place. Ever been to Italy?

FAY

No. Have you?

BILL

No, but I'm goin'—some day. There's
a place—Italy! All they do over there is
ride around in boats an' play guitars. I
met a little Eyetalian tomato once—

(reminiscently)

Was she able! Ever since then I've had
a yen to go to Italy. A man could sure
do himself good over there.

[222]

175. TWO SHOT

toward Fay.

FAY

(highly amused)

I suppose you know all about women.

BILL

I know one thing about 'em—all of 'em.

FAY

What?

BILL

They're all female.

FAY

Is that a compliment or a pan?

BILL

It's a fact.

FAY

Well, I'm one little girl that's always willing to face facts. Reach me a drink, honey.

He gives her a drink from the taboret. She drinks it; hands him the glass.

FAY

How long does it take you to get acquainted?

BILL

Me? I'm easy t'meet an' hard to forget.

She stares at him a moment, then bursts into laughter. She grows almost hysterical with merriment.

176. CLOSE SHOT

Bill.

BILL

(resentfully)

What's the joke?

177. MED. CLOSE SHOT
toward Fay.

FAY
(still laughing)

Nothing.

Continued [223]

177. CONTINUED

She clambers off the divan and goes to the phone nearby, CAMERA PANNING WITH HER. She is still gurgling with laughter as she dials a number. The following phone conversation will be intercut with:

178. CLOSE SHOT

Bill, watching and listening.

CONTINUATION SCENE 177:

Fay, at phone.

FAY
(into phone)

Hello. Let me talk to Henry Meyers.

(pause)

Henry? . . . Fay. Listen, I got a great idea for a new number for the show. Get this title—'Easy to Meet and Hard to Forget.' Get it? . . . You're darn right it will. Sort of an 'Edie Was a Lady' number . . . Huh?

(she looks toward Bill)

Why, I—I just thought of it. Now call up Tiomkin and tell him to knock out a tune for it right away. Sounds like a natural.

(pause, and another look at Bill)

No, I'll be busy this afternoon . . . O.K.

(she hangs up)

179. MED. CLOSE SHOT

at divan, as she comes into scene to Bill.

FAY

You're all right. I like you better all the time. You grow on me.

She sits in his lap. Suddenly she reaches over and kisses him—a hot kiss, which at first he takes and then struggles away from as he did in the previous scene with Trina. Finally he separates his lips from hers and, holding her in his arms, looks at her wonderingly.

BILL

You women get some phoney ideas, all right . . .

DISSOLVE TO:

[224]

180. INT. BILL'S SHACK—NIGHT
MEDIUM SHOT

Trina is ironing out some washing on the ironing board—a primitive affair, undoubtedly knocked together by Bill or perhaps by Trina herself. Nearby the table is neatly set for dinner, with plates and other utensils tidily arranged. There is a pot boiling on the stove. The room is lit by a swinging oil lamp.

Trina irons busily. Her face is unhappy and there is an aura of apprehension about her. She looks up at a battered old alarm clock set somewhere nearby.

INSERT: CLOSEUP ALARM CLOCK

its hands pointing to nine o'clock.

BACK TO SCENE:

She resumes ironing, disconsolately, then starts suddenly as she hears footsteps outside on the dirt path. A fragmentary joy leaps into her eyes, which she conceals by bending again over the ironing board as Bill enters. He tries to cover up his hang-dog feeling with an exaggerated truculence.

TRINA

(in a small voice)

Hello, Bill.

Without answering, he takes off his hat and coat, flinging them into a corner of the room. She puts up the iron and goes to the stove.

TRINA

Your dinner got cold. I put it back on the stove to warm up.

BILL

I had dinner.

TRINA

Oh.

She resumes her ironing. He sits down on the edge of the cot.

181. CLOSE SHOT

Bill, watching Trina moodily.

182. TWO SHOT

TRINA

Kinda hot today, wasn't it?

Continued [225]

182. CONTINUED

BILL

(suddenly)

Why don't you say what's on your mind?
Why don't you squawk 'cause I came home
late for dinner?

TRINA

(quietly)

You got a right to come home late, Bill.

BILL

(with mounting irritation because Trina
refuses to fight)

I guess I shoulda telephoned!

TRINA

(most reasonably)

How could you, without a phone in the
house?

BILL

I suppose I oughta make up excuses for bein' late, huh?

She put up the iron and comes over to him. She gets down on her knees in front of him and looks up at him. She takes his hands.

183. CLOSE SHOT

of the two.

TRINA

You don't ever hafta make excuses to me for anything. You know you don't. You're your own master, Bill.

BILL

(savagely)

You're darn right, I am.

TRINA

O' course you are.

(she pauses)

Did you pay the installment on the stove?

BILL

Yeah.

(he takes a slip of paper out of his pocket and hands it to her)

There's the receipt.

Continued [226]

183. CONTINUED

TRINA

(smiles)

There. You see how easy it is? Only nine months more an' the stove is ours.

He doesn't answer and she looks at him anxiously.

TRINA

I bet you're tired.

184. WIDER ANGLE

as she rises and forces him down on the cot, picking up his feet and laying them on the cot.

TRINA

There, dear. Lie down.

He is stretched out on his back. She works the gadget that opens up the sky piece. Having done this, she goes back to her board and resumes ironing, humming a little tune as she works. He watches her, as

FADE OUT.

[227]

FADE IN

185. EXT. SECTION OFF RAILROAD TRACKS
NEAR VAG CAMP—DAY—LONG SHOT

Of some kids playing baseball.

186. CLOSE SHOT

Of a kid at bat. The ball comes into scene from pitcher, the kid swings, hits a high fly and starts to run.

187. CLOSE SHOT

Of the pitcher, a red-headed kid of about twelve, as he stands in the pitcher's box looking up at the ball, following its course with the turning of his head.

188. FOLLOW SHOT

With ball as it comes down right into the hands of the shortstop—Bill. It's a cinch fly, but Bill lets it slip through his fingers. A chorus of disapproving yells greets this blatant error.

189. PAN SHOT

Of kids running around bases, taking advantage of Bill's error.

190. MED. CLOSE SHOT

Bill, as he recovers the ball and flings it to home plate, wild.

191. MED. CLOSE SHOT

Catcher. He leaps into the air and misses the ball.

192. PAN SHOT

Of kids runnin' around bases, cashing in on the second error.

193. CLOSE SHOT

Of Red, the pitcher. He flings his glove violently to the ground and CAMERA TRUCKS WITH HIM as he starts over to Bill.

194. MED. CLOSE SHOT

Bill stands sheepishly taking in the devastation caused by his double error, as Red comes up.

RED

(witheringly)

Yuh big butter-fingered palooka!

Other members of the team come into shot and group accusingly around Bill.

BILL

(apologetically)

Somethin' must've got in my eye, Red.

RED

Yeah—a freight car! Instead o' keepin' your mind on the game you was lookin' at them trains, like you always do!

BILL

Now listen, Red, I—

RED

(shrill with rage)

I warned you before! Somethin's come over you the last couple weeks. You been no good to us.

BILL

(meekly)

Don't I get another chance?

RED

No! Turn in your glove. You're thru.

With exaggerated misery, Bill takes off his glove and hands it to Red. Bill exits out of the shot as Red calls out:

RED

Hey, Slats!—

A wizened little kid runs up. Red throws Slats the glove and the kids go back to their places.

195. LONG SHOT

As the game resumes.

CUT TO:

[229]

196. EXT. IRA'S SHACK—MED. SHOT

A little space has been set aside outside the shack for a garden; a few anaemic flowers poke their heads thru the ground. Ira, wearing an eye shade and looking extremely rural in his shirtsleeves, is watering the flowers, flicking drops of water with his fingers from an old tin can. Bill comes into the scene, pauses, watches Ira a moment.

BILL

How're you doin', Ira?

IRA

Comin' along.

(he bends down to pluck weeds)

Dang weeds! Grow s'fast as you can pull 'em up.

197. CLOSE SHOT BILL

He shakes his head. .

BILL

That's a dyin' lookin' layout, if ever I saw one.

198. MED. CLOSE SHOT

Of the two, taking in open doorway or window of shack, through which can be seen a shapeless form stretched out on Ira's bed—merely a suggestion of someone asleep there.

IRA

(straightening)

You gotta give 'em time to come up.
There's no special hurry.

BILL

What kind of a dingus you call that one there—that tired lookin' one, I mean.

IRA

Huh? That one? That's a harebell.
They're all harebell.

BILL

What'll you take for that little old sleepy one?

IRA

Nothin'! Don't wanta sell any.

Continued [230]

198. CONTINUED

The figure on Ira's bed b.g. raises up, apparently awakened by the voices outside. It is Flossie. She has been dozing, fully dressed, on Ira's bed. She looks' blearily about as she comes out of her stupor.

BILL

Give-ya a dime for it.

IRA

'Druther keep it, if you don't mind, Bill—I'd just as soon wait till they come up a little stronger. Then you can have all you want.

Flossie, b.g., gets up and starts out of the shack.

199. ANOTHER ANGLE

As Flossie comes out, blinking in the late afternoon sun. She looks owlshly at the two men, then without a word lurches away.

BILL

(with a grin)

If this sort o' thing keeps up, Ira, you'll have the neighbors talkin'.

IRA

Let 'em talk. The more time Flossie spends in my shack, the less time she has to get into trouble.

BILL

How about that dandelion wine you're always brewin'?

IRA

The more she drinks o' that, the less gin she'll drink.

BILL

You got weird ideas of reform.

(he pauses)

What's the use o' tryin' to make a pen-knife out'a a battle axe? Seems kinda foolish to me.

[231]

200. CLOSE SHOT

Ira, as he looks after the lurching figure of Flossie, b.g., then turns to Bill and quotes:

IRA

'God chose the foolish things of the world that He might put to shame those that are wise. And He chose the weak things of the world that He might put to shame those things that are strong.'

201. TWO SHOT

As Ira pauses and smiles.

IRA

That's in the Gideon Bible you got me, Son. Corinthians 1:26. Wait—I'll show it to you—

He enters the shack to look for the bible. The minute he does this, Bill bends quickly down and picks one of the harebells. He sticks it into his shirt pocket and quickly exits.

Ira comes out with the bible in his hand, looks for Bill, discovers he is gone, shrugs philosophically, adjusts his nose glasses and sits on the edge of the doorstep, opening the bible and reading, as we

CUT TO:

202. EXT. SECTION OF CAMP—TRUCKING
SHOT

Of Bill, walking past several shacks of the camp. Bragg's voice, raised in florid oratory, comes into the scene.

BRAGG'S VOICE

So they feed us patriotism an' salvation
and a lotta other hooey. Bunk, that's what
it is—bunk!

The trucking shot brings Bill up to where Bragg is giving his soap box speech. As he joins the group of eight or ten people fringed around the orator.

203. MED. SHOT

Of the group, with Bragg in the center on the soap box, holding forth in the best street-corner fashion. The group

Continued [232]

203. CONTINUED

of spectators include men, women and children, who are listening to Bragg not because they're interested in what he's saying but because it helps them kill time.

BRAGG

(continuing his speech)

They feed us that stuff just to give us somethin' to be afraid of—to keep us from jumpin' out of the old harness. Anybody with brains knows that! It's the big guys with the dough keep feedin' that stuff out. Why? So we won't get outa control.

204. CLOSE SHOT

Bill, as Bragg's voice continues:

BRAGG'S VOICE

Why should certain guys have all the money there is an' you and me have nothin'?

BILL

Maybe they're smarter'n we are.

205. MED. CLOSE SHOT

Featuring Bragg.

BRAGG

Smarter! They just got the edge, that's all. They're on the inside, that's all.

(bitterly)

They tell you to go on out an' get a job. What job? There ain't no such animal. Look at me. I'm skilled labor. One o' the best toy packers in the business.

CAMERA SWINGS OVER TO BILL

BILL

(maliciously heckling)

What's a toy packer?

CAMERA SWINGS BACK TO BRAGG

Continued [233]

205. CONTINUED

BRAGG

Shippin'. Packin' toys to ship. I'm one o' the best men in the business. Used to work for Stark and Lee—where Ira works. Ask him. He'll tell'ya. Two years, an'

they let me out. Sure! What d'you expect? They're in with that Wall Street mob. They let me out without any notice—not a day.

206. CLOSE SHOT

Bill.

BILL

For gettin' drunk?

207. MED. SHOT

Bragg, shooting past group.

BRAGG

Me? Say, I never got drunk on the job in my life—only once or twice. But it wasn't for that. They claimed some stuff was missin'. Just the same old alibi to let me out an' save a coupla dollars expenses. It's always been that way, the dirty capitalists!—

During the last of this speech, CAMERA PANS AWAY FROM the group, focusing on Bill's shack in the distance.

DISSOLVE THRU TO:

208. INT. BILL'S SHACK
MEDIUM SHOT

Flossie is seated watching Trina, who is busy as usual putting the finishing touches to Bill's supper. While she does this, Trina hums a song under her breath. Flossie watches her with a sullen expression on her face, then suddenly speaks up irritably:

FLOSSIE

Will you stop that singin'?

TRINA

(pauses)

Why?

Continued [234]

208. CONTINUED

FLOSSIE

What've you got to sing for?

TRINA

Can I help it if I feel good?

FLOSSIE

What about?

TRINA

Everything.

209. CLOSE SHOT

Flossie. She shakes her head.

FLOSSIE

Everything. That means Bill. You're stuck on him, ain't you?

210. TWO SHOT

TRINA

He's been good to me, Bill has.

FLOSSIE

Sure. He ain't sick o' you yet. You've only known him a few months. But wait. First thing that goes wrong—out! out! out! You're talkin' to somebody that's had dealings, kid—dealings.

TRINA

Maybe it won't be that way with me.

FLOSSIE

You don't know your men, kid—I can see that. You'll find out.

211. CLOSE SHOT

Trina.

TRINA

If Bill *does* get tired of me—then, if he does—I'll—

(she shakes her head)

But maybe he won't.

[235]

212. CLOSE SHOT

Flossie.

FLOSSIE

You're a cinch to get the air sooner or later. Why wait for it?

(pause)

Especially when there's so many chances for a woman to improve herself around.

213. TWO SHOT

Favoring Trina.

TRINA

How d'you mean?

FLOSSIE

You're young an' pretty. And you got a shape, ain't you? Well, what have you got it for?

TRINA

(shakes her head)

My shape's not so much, I don't guess.
I'm kinda skinny, you know.

FLOSSIE

Who told you that?

TRINA

Bill.

214. TWO SHOT

Favoring Flossie.

FLOSSIE

There's a man for you! Never expect
a man to tell you anything nice about your-
self. They're afraid you might get wise
you're too good for 'em.

(looks Trina over with bleary eyes)

You got plenty o' shape. Nearly as good
as mine when I was as young as you.

(she straightens up and runs a proud hand
over her hips)

Not so worse now, what? Anyway, it
still gets by, as they say. Well, it's up
to you. All you got to do is say: 'Here
I am—come an' get me, somebody.' That's
the only way you can beat the game.

[236]

215. CLOSEUP

Of Trina's pitying face, as she looks at Flossie.

216. CLOSE SHOT

Flossie. Her bravado deserts her and she breaks down and weeps. Trina comes into shot and comforts her silently. Flossie lifts a haggard face, moaning:

FLOSSIE

I'm a liar—a broken down, played out, finished old bat. I used to be like you. Don't you ever get like me. I don't know why I said those things to you. Don't believe me. Don't believe a word I said!

As Trina pats her comfortingly:

CUT TO:

217. EXT. SECTION OF CAMP
MEDIUM SHOT

Bragg, still on the soap box. The group listening to him has dwindled to Bill and three others—a couple of old women and a boy. Bragg is still engaged in his oration, undiscouraged by the dwindling audience.

BRAGG

Accused of theft—an' me innocent! That's the way they work it. If I took the stuff I wouldn't care, but I didn't.

One of the women edges away, as Bragg continues:

BRAGG

I never took a thing out o' the joint. Don't think I didn't have plenty of chances. And what a sucker I was not to have done it—a prime sucker!

218. REVERSE SHOT

shooting from behind Bragg. As he continues, the second woman drifts away, leaving only Bill and the small boy listening.

BRAGG

Here I'm starvin' and they're still grindin' out profits exploitin' the workers, cashin' in on the sweat and blood of the toilers, the wage slaves!

Continued [237]

218. CONTINUED

The boy exists, leaving Bill the only one left to listen to Bragg.

BILL

You should never spiel around supper time, Bragg.

BRAGG

(as he steps off the soap box)

That's it! If they had brains instead a bellies, they wouldn't be what they are. I'm sick o' them. I'm gonna blow this dump soon's I get some dough.

219. MED. CLOSE SHOT

Bill.

BILL

That'll be never.

BRAGG

(entering shot)

Is that so? Listen? I cut you in for fifty percent o' that summons money, didn't I? How'd you like to cut in on fifty percent of another job—a job where your cut'd be five grand instead o' five bucks?

BILL

What kind of a job?

BRAGG

That toy factory I was talkin' about. They fired me, didn't they? Why didn't they fire Ira? He's always asleep on the job. They took the bread right outa my mouth, didn't they? They owe me some-thin' and I'm gonna collect.

220. CLOSE SHOT

favoring Bragg, as he lowers his voice.

Continued [238]

220. CONTINUED

BRAGG

Get this, Bill. They got an old tin can they call a safe. I know the joint backwards. Every Friday they get ten grand for the payroll an' it stays in the safe till Saturday noon. It'd be a push-over, Bill, if you went in with me. Five grand apiece, Bill. What d'you say?

221. MEDIUM SHOT

favoring Bill.

BILL

In the first place, what do I want with five grand? And, No. 2—if I needed money I'd go out an' make it. And, No. 3—Trina tells me you been hangin' around the shack while I'm away and she don't like it. I told her I'd speak to you about it. There's only one language you can understand, Bragg—

He smacks Bragg in the face, knocking him cameraward.

BILL

That's it.

As he turns and exits.

DISSOLVE TO:

[239]

222. INT. BILL'S SHACK
MEDIUM SHOT

Trina is at the stove, as Bill enters. He comes up to her, puts his arms around her, brings his fist down to poke her in the ribs a couple of times.

BILL

That hurt?

TRINA

(slips her arm up around his neck)

Not when you don't mean it.

BILL

Suppose I slugged you hard?

223. CLOSE SHOT

Trina and Bill.

TRINA

Bill—

BILL

What?

TRINA

D'you like bein' with me?

BILL

I ain't so nuts about it. You're pretty skinny. Leggo my head!

224. CLOSEUP

Flossie, watching.

TRINA'S VOICE

But you're not tired o' me yet, are you?

225. THREE SHOT

BILL

Hey! Leggo my head, I tell you, before I smack you one.

He grabs her and gives her a terrific hug, almost forcing the breath out of her body.

Continued [240]

225. CONTINUED

TRINA

O-o-h! Gosh!

(to Flossie, proudly)

Bill's awful strong. Look—

(she points to a mark on her arm and raises her skirt a trifle to show another)

I'm black and blue all over where he just touches me. He don't know his own strength, Bill don't.

BILL

(gruffly)

Come on, Whoosits—dish up that stew!
I'm starvin'.

She obeys promptly, setting the stew on the table and filling Bill's plate.

227. CLOSE SHOT

at table as Bill sits down to eat. When Trina's back is turned, he takes out the flower purloined from Ira's garden and puts it into the stew.

228. MED. CLOSE SHOT

Flossie, taking in open doorway through which Ira can be seen approaching.

IRA

(calling)

Supper's ready, Flossie.

FLOSSIE

I ain't hungry, Ira, thanks.

229. CLOSE SHOT

at table. Bill is seated with his back to the door.

TRINA

(watching Bill eat)

How's the stew, Bill?

BILL

It tastes funny. Didn't you put any salt in it?

TRINA

Yes—I think so. Wait—I'll get some more.

Continued [241]

229. CONTINUED

As she starts to do this, Bill pulls the flower out of the stew.

BILL

Hey!

TRINA

(startled)

What?

BILL

(holding up the flower)

What d'you call this? A fine thing to pull out'v a man's stew. What's the idea?

230. CLOSE SHOT

of Ira in doorway, looking over toward table.

231. MEDIUM SHOT

table, from angle of Ira and Flossie.

BILL

(tossing flower on Trina's plate)

What kind of a mess is this, anyway? Maybe I'll find most anything in it, huh? An old pair o' shoes, or somethin'.

Trina picks up the flower from the plate and looks at it.

TRINA

It's one of Ira's flowers.

(happily)

Bill! You got it for me.

BILL

(eating away rapidly to keep from smiling
from ear to ear)

I found it in the stew, I tell you.

TRINA

What kind is it?

BILL

Huh? Don't you know that, even?
Whew, but you're dumb! It's a—uh—a
harelip—that's it.

[242]

232. CLOSE SHOT

Flossie.

FLOSSIE

Harebell.

233. CLOSE SHOT

at table.

TRINA

I don't care what it is, it's pretty.

BILL

That's a measly little one. Throw it
away.

TRINA

No.

BILL

Throw it away, I tell you. I'll get you a bunch o' them. Big ones that look like somethin'. That kind ain't even got a smell.

He reaches over, grabs it and tosses it to one side. She promptly picks it up.

TRINA

I like it!

Ira has come up to the table, standing behind Bill. CAMERA PULLS BACK to take in Ira's frowning face, as Bill looks up. Bill takes a coin out of his pocket and hands it to Ira.

IRA

What's this for?

BILL

That's that dime I owe you. I bought a flower from you, didn't I? What's the matter with you? Can't you remember anything?

IRA

I didn't sell you no flower. Now, listen here, Bill—

234. MED. CLOSE SHOT

Shooting past Ira toward table.

Continued [243]

234. CONTINUED

TRINA

(intervening)

He got it for me. It's awful pretty, Ira. Maybe I'll plant some too, if Bill decides we'll stay here.

BILL

Don't worry about that.

IRA

Now, Bill, I can't have you pickin' 'em like that. Of course bein' as you got it for Trina . . . But I'll have to ask you not to do it no more.

BILL

(pushing Ira's hand with the dime away)

Go on an' take it.

235. REVERSE ANGLE

shooting past table toward Ira.

IRA

(stubbornly)

No, I ain't in the flower business.

(he throws the dime on the table)

God never meant for flowers to be sold. Susan said that, and Susan was close to God.

Bill stops eating long enough to take the dime.

BILL

(soberly)

She was, huh?

IRA

Yes. Susan walked hand in hand with God all her life. She was a good woman. She's with Him now, I s'pect.

BILL

She is, huh?

IRA

Yes, sir—if anybody's with Him, she is. Right there by His side. Right in the fold. She led a beautiful life—always a-singin' of His praises, a-baskin' in His glory.

Continued [244]

235. CONTINUED

BILL

That so? You're kinda close to God yourself, ain't you, Ira?

IRA

Not so close as I might be. And you could be closer, too.

236. THREE SHOT

at table; with Flossie b.g.

BILL

(derisively)

Who—me? Not me! Naw! I ain't lookin' for no protection. Nope, I don't belong messin' around God much. We'll leave that end of it to li'l old Whoosits here.

(he slips an arm around Trina)

She ain't so far away from God herself, are you, kid?

TRINA

I am, too! I ain't no nearer than you are. How could I be, when I'm with you?

BILL

(with a grin at Flossie)

How about you, Flossie?

FLOSSIE

(getting up)

When you can make wine outa dandelions, I'm willin' to believe anything!

(to Ira)

Come on, Ira—my tongue's hangin' out.

They exit. For a moment Bill and Trina sit at the table eating in silence; then the mournful, insistent wail of a train whistle comes into the shot.

237. CLOSE SHOT

at table. Bill suddenly pushes his plate away.

TRINA

(brightly)

Some more?

BILL

No. I'm not so hungry tonight.

Continued [245]

237. CONTINUED

CAMERA DRAWS BACK AND PANS WITH HIM as he gets up, wanders over to the bed, looks up and sees that the sky opening is shut. He turns.

BILL

What're you always keepin' that shut for?

TRINA'S VOICE

I thought maybe it might rain or something'.

BILL

Suppose it does? Rain's good for you.
(he opens the skylight, talking as he
does so)

Makes you grow.

The open space in the shack ceiling reveals a darkening sky. Night is coming on. Somewhere in the distance the same accordion we heard in the opening sequence begins playing. It will be heard throughout the balance of the scene to the fade out.

Having opened the skylight, Bill lights a cigarette and stretches out on the bed, looking up through the space in the ceiling.

238. CLOSE SHOT

Of open skylight. A bird wings its way across the space.

239. CLOSE SHOT

Shooting down at Bill, as he lies on the bed. The winging bird causes a yearning look to come to his face.

240. CLOSE SHOT

Trina watching Bill as she eats. She looks up at the sklight.

241. CLOSEUP

Bill, looking up at the skylight. He shifts his head and looks at:

Continued [246]

241. CONTINUED

INSERT: CLOSE SHOT

Of the new stove.

CONTINUATION SCENE 241:

The sight of the stove causes Bill to frown.

242. CLOSE UP

Trina. She notices this. Over this closeup comes again the sound of the train whistle. A spasm of fear contracts her face as she looks quickly at Bill.

243. MED. CLOSE SHOT

Bill. Part of the train whistle comes over this shot. The look of longing in his eyes is intensified. He stirs restlessly. He flicks his cigarette through the space in the ceiling, then puts his hands back of his head, using them for a pillow, and relaxes—looking at the patch of darkening sky.

244. CLOSE SHOT

Trina, watching Bill.

TRINA

(timidly)

Bill, why d'you always keep lookin'
through that hole for?

245. MED. CLOSE SHOT

Bill. He doesn't answer.

TRINA'S VOICE

Why?

BILL

(without moving)

When you're dead, you get a hunk o' earth. When you're alive, you want to hold on to your hunk o' blue. That's all I got in the world. That's all anybody's got . . . a hunk o' blue.

[247]

246. CLOSE SHOT

Of the open skylight, as another bird wings by.

247. MED. FULL SHOT

Of the room. The train whistle is heard again. Trina rises abruptly and comes over to Bill. She kneels down alongside the bed, reaches for a blanket and covers him.

248. CLOSE SHOT

Of the two. She runs her fingers through his hair.

TRINA

(in a low voice)

Bill—

He grunts. His thoughts are with the winging bird. She continues slowly:

TRINA

What Ira said . . . I been thinkin'—there couldn't be any heaven much better'n this, could there? I mean when it's quiet all around and we're close—like now.

He turns and looks into her eyes. He reaches forward with a finger and pulls her lids down, squinting as though for a closer examination of her eyes.

BILL

I never noticed it, kid, but your eyes are sky color, sorta.

(he pinches her cheek, pushing her head away a little)

You got a hunk o' blue in each glim.
(immediately ashamed of his sentimentality,
he adds quickly)

But that don't stop me from cloutin' you on the chin any minute.

She smiles and throws her head way back so that her pointed little chin offers a target. Leaning on one elbow he brings his fist into roughly playful contact with her chin. She covers his fist with her hands in a caressing gesture. He looks at her a moment in silence.

BILL

Climb in here.

[248]

249. MED. CLOSE SHOT

She gets into bed with him, cuddling up to him.

BILL

(looks at her)

You're all right—a swell kid—I like you plenty.

TRINA

(happy to bursting)

Do you, Bill?

BILL

Yeah. But don't get figurin' on that too much.

The smile fades from her lips. He continues:

BILL

Because how much I like a woman ain't nothin' to bet money on. I'm liable to be steamed up about you today and washed up tomorrow. You know, I been tangled up with women before.

TRINA

Yes, I guess you must've known lots of 'em. And nicer ones, too, I guess. Bigger and fatter.

BILL

Fatter, sure—but no nicer. You're not so bad. A little more meat on you an' you'd be lotsa woman. You suit me fine—right now.

TRINA

(mollified)

Do I?

BILL

But maybe you won't tomorrow, see? And you kinda got to watch yourself on that account. Don't let yourself get in too deep, see?

250. CLOSEUP TRINA

TRINA

Yes. But—but what if—sometimes you
do and—and you can't help it. What then?

[249]

251. CLOSE SHOT BILL

BILL

That's the way she goes. You just hafta
learn how to take it an' laugh it off.

252. TWO SHOT
favoring Trina.

TRINA

(alarmed)

You mean, Bill, I—I—you're goin' to—

BILL

What?

TRINA

You said I'd hafta—take it—

BILL

Naw, not you. I mean anybody—any-
body that gets it.

TRINA

(relieved)

Oh.

253. TWO SHOT
favoring Bill.

BILL

No, I don't mean you, yet. But I'm apt to hand it to you any day. Who can tell? Suppose I wake up some mornin' with a taste in my mouth like wet hen feathers? Woman don't look so good them mornings, an' I'm just as apt to push you in the face an' take a stroll for myself as not.

TRINA

But maybe that won't be right away—I mean, not tomorrow or—quite so soon.

BILL

Can't tell. Nobody knows how a guy's apt to feel some morning. He just wakes up like I said and—there he goes.

Continued [250]

253. CONTINUED

TRINA

But all men don't do that.

BILL

No . . . but them that don't, feel like it. Or maybe they can't get away.

TRINA

Why can't they?

BILL

A man can have a lotta reasons.

She is silent. Together they listen to the accordion in the distance.

254. CLOSEUP TRINA

TRINA

Bill, listen—you like babies, don't you?

255. CLOSE TWO SHOT

Toward Bill, as he sits up abruptly.

BILL

What's the difference if I like 'em or not?

TRINA

Well, it'd make a difference—a big difference—if you didn't.

BILL

Why?

256. CLOSE SHOT TRINA

TRINA

Because you're gonna have one.

(she adds in a rush of speech)

I've known it a long time—several months. I thought I'd be afraid to tell you—but ever since we been here I ain't afraid o' nothin'.

[251]

257. TWO SHOT

favoring Bill.

He is about to speak but she quickly puts her hand over his mouth and continues:

TRINA

Don't say nothin', Bill, till I finish . . .
I want you to know somethin'. It's your baby and mine—but you got nothin' to

worry about. I'm willin' to take all the blame for it.

His face is a mask of woe. She senses his mood and a note of despair creeps into her voice as she continues:

TRINA

I didn't mean to tell ya at all. But pretty soon you'd know anyway, and it's just too—too grand and wonderful to keep to myself. You can't understand it, Bill—you're a man. But look—

Again he is about to say something and she covers his mouth with her hand.

TRINA

Please let me finish—

258. CLOSE TWO SHOT

toward Trina.

As she continues:

TRINA

You needn't look at me like that. I'm not afraid of you, darling. I've changed a lot. Only a little while ago I was all alone. Then you came along an' there was two of us. Now there's three of us.

(hysterically)

You kin never leave me now, Bill—never!—Never! Even if you go away—I've got you now. No matter where you go—no matter what you do—I've got you—I've got you! You're a prisoner inside of me.

BILL
(dazed)

Wait a minute.

259. MED. SHOT

As Bill gets off the bed, goes for his hat and coat and exits without another word or a backward glance.

FADE OUT.

[252]

FADE IN:

260. INT. THEATRE WINGS AND STAGE—
NIGHT—CLOSE SHOT

Bill. Over the shot comes the words of the song: "Easy to Meet and Hard to Forget," as sung by Fay La Rue.

CAMERA DRAWS BACK to show Bill lounging in the wings. B.g. can be seen chorus girls, comics, stage hands, etc.

CAMERA PANS OVER to center of stage for a shot of Fay as she sings. The rendition of her number will intercut with:

261. CLOSEUP

Of Bill, listening and reacting.

262. OMITTED

263. MED. SHOT

As Fay finishes the song and, to the applause of the audience, runs off, almost plumb into the arms of Bill. CAMERA PANNING WITH HER.

264. CLOSE SHOT

Fay and Bill, as she looks up at him. A troupe of chorusters move past them for the next number. We hear the music of the next number over the scene as Fay greets Bill.

FAY

(her face lighting with delight)

Hello, Hard-to-Forget.

BILL

I got to see you a minute.

FAY

(grabs his arm)

Come on up. I've got to change for the next number.

265. TRUCKING SHOT

With them as Fay leads him along past actors and stage hands and they mount the circular staircase leading to the dressing rooms above—Fay keeping up a constant stream of chatter . . .

Continued [253]

265. CONTINUED

FAY

Another week and I'm through. I got great news for you, Bill. I'm going to have a month off before I open in London. That'll give us a few weeks to fool around—France and Italy—or maybe just Italy . . .

By this time they reach the top of the stairs.

266. PANNING SHOT

With them as Fay leads Bill past more lolling and moving figures of the musical show, up to her dressing room door . . .

FAY

We'll ride around in one o' those gondolas, and you'll play the guitar . . .

As they enter Fay's dressing room,

CUT TO:

267. INT. FAY'S DRESSING ROOM—
MED SHOT

As Fay enters with Bill. A negro maid is waiting in the dressing room with Fay's costume for the next number all laid out and ready. The following scene will be played with the maid dressing Fay—a complete change of costume. The fact that Bill is in the room makes no difference to either Fay or the maid and we get the feeling that he has been there before at similar times. Throughout this scene music of the number in progress on the stage will be heard.

FAY

(as the maid starts to dress her)
How does that sound to you, baby?

BILL

(directly)

Great. But I can't go with you.

268. CLOSE SHOT

Fay, as she looks up quickly.

FAY

Kidding?

[254]

269. THREE SHOT

Favoring Fay, as she dresses.

BILL

I told you my trademark, didn't I?
'Subject to change without notice.'

FAY

I know. But I've arranged everything—
even passage on the boat for you.

BILL

I'm sorry, but I can't go with you

FAY

What's happened?

BILL

I let myself in for something—on the
installment plan.

FAY

What is it? Tell mama.

BILL

I'm in a jam.

FAY

What kind of a jam?

BILL

It's personal.

FAY

(coaxingly)

Tell me.

BILL

No. It's just between me and another party and it's not important—only it means I gotta hang around for a while.

FAY

Business is good. I might be able to get 'em to keep the show here another week or two . . .

(pauses)

Or else you could take the next boat.

[255]

270. ANOTHER ANGLE

Favoring Bill.

BILL

No. Rub me out. I'm gonna go on a diet—no women. They interfere with my circulation. That goes for all of 'em.

FAY

Just the same, I know what it is.

(accusingly)

It's a girl.

BILL

You're a fortune teller.

FAY

It is.

(pause)

Isn't it?

BILL

Search me. I won't know myself for a few months.

271. REVERSE SHOT

Featuring Fay.

FAY

Oh.

BILL

An' I won't be around then, to find out.

FAY

(slowly)

I see. You got a bicycle.

BILL

A motorcycle.

FAY

Well, I got a Rolls. I'm broadminded.

272. MED. SHOT

There is a knock on the door and the call boy's voice is heard calling Fay's name. She is dressed now. She comes over to Bill and puts her arms around him.

Continued [256]

272. CONTINUED

FAY

That jam you're in can be fixed. There's always ways and means. If it's money you need, I got plenty. There's hardly anything money won't fix. You can bank with me for all you need.

(coaxingly)

Hard-to-Forget, you want to go *travelin'*
—you know you do. And I got itchy feet
myself. We'll make Europe with a hop,
skip an' a jump. Night stands and sleeper
jumps all over the map, honey.

The knocking on the door is repeated and again
the boy calls out:

CALL BOY'S VOICE

Miss La Rue!

FAY

(to Bill, as she starts toward the door)

I'll be right back—I want to talk to you—
don't go away—

As she opens the door to exit, the maid picks up
a gaudy cloak and follows Fay out of the dressing
room.

Bill stands undecided a moment, lighting a
cigarette, deep in thought. It is characteristic that
he borrows the cigarette from a case on Fay's
dressing table. He looks around, undecidedly, and
spots some sheet music. He goes over and picks
up one of the songs.

273. CLOSER SHOT

It is a published copy of Tosti's "Goodbye
Forever." Acting with sudden decision Bill rips
off the top part of the song sheet containing the
word "Goodbye" in very large type. PAN as he
goes over to the dressing table, sticks the bottom
part of the torn paper into an open pot of grease
paint and stands the paper in the most conspicuous
place he can find on the dressing table.

274. MED. SHOT

As he exits from the dressing room.

DISSOLVE TO:

[257]

275. EXT. PADDY'S MARKET—NIGHT—
FULL SHOT

This is the open air market situated under the elevated with hundreds of pushcarts congregated, doing a land office business with the poor people of the neighborhood. Every nation under the sun is represented at this market, among the vendors as well as the customers. There is a babble of voices and the flare of acetylene torches attached to the various pushcarts. Every conceivable kind of merchandise and edibles are for sale in this market, and haggling is continuous. Over and above the human voices comes the intermittent roar of the elevated as it thunders above the pushcarts.

CUT TO:

276. EXT. SECTION OF MARKET—MED. SHOT

Featuring an Italian vendor with a pushcart loaded with vegetables. Trina is standing in front of the pushcart among several other women, some with children. She has a large basket crooked in her elbow and presents a startling contrast to her usual mousey self in her lion-like attitude toward the vendor. It is apparent that she has been quarreling with him.

TRINA

(angrily, as she digs into the pile of corn
on the cob at the end of the pushcart)

Why don't you pull some of the good
ones outa the bottom?

(she gets a nice long one)

Like this! You think I was born yesterday? I want the best—the very best.

VENDOR

(protestingly)

The best, she cost twenty cents a dozen.

TRINA

Not to a regular customer, Pietro.
Here—I'll pick 'em myself.

She sets the basket down and digs into the corn cobs, discarding certain anaemic and partly eaten away cobs, digging down for the fat and succulent ones until presently her arms are filled with a dozen ears of corn. She bends down and throws them into the market basket which is already heavily loaded with other edibles, canned stuff, onions, cabbages and the like. She straightens up, hands Pietro a couple of coins, picks up the basket and turns to go.

Continued [258]

276. CONTINUED

CAMERA PANS WITH HER as she struggles along, tugging at the heavy basket. She bumps right into Bill. She looks at him a moment in surprised silence.

BILL

I was just over to the shack. Flossie told me you were here.

277. CLOSE SHOT TRINA AND BILL

With the violent gesticulations and clamor of bargaining at booths b.g. and a constant stream of buyers back and forth as they stand there.

TRINA

I had to do my shoppin' for tomorrow's supper.

BILL

(surly and unsmiling)

Whose supper?

TRINA

Yours.

BILL

How do you know I'll be around tomorrow?

TRINA

In case you are.

BILL

Suppose I don't show up.
(she looks at him without answering and he adds)

Tomorrow—or ever.

TRINA

I suppose I'd be lonely again, like I was before I met you. But it wouldn't be the same, exactly . . . I got somethin' to look forward to, now.

278. TWO SHOT

Toward Bill.

BILL

(grimly)

I'll say you have.

Continued [259]

278. CONTINUED

TRINA

I'll never be lonely when my son comes.

BILL

How d'you know it'll be a son?

TRINA

I prayed for a son.

BILL

I thought you didn't believe in that sort o' stuff.

TRINA

Sure, I do.

BILL

You told me you didn't.

TRINA

(simply)

I lied. I didn't want you to get sore at me. But I guess you're angry now, aren't you?

BILL

Why should I be? It's your funeral.

279. TWO SHOT

Toward Trina.

TRINA

(brightly)

Yes, it's my funeral. I'm gonna stand on my own feet, now, I'm gonna bring my son into the world and I'm gonna take care of him and love him, always.

BILL

(a little bitterly)

And as far's I'm concerned—

TRINA

(quickly)

You too—always.

(she nods)

That goes without saying.

(wistfully)

But you're a free man, Bill. As free as a bird. Remember that.

Continued [260]

279. CONTINUED

BILL

I'll remember.

(abruptly)

Come on home. Ira's waitin'.

TRINA

(puzzled)

Ira?

BILL

Yeah. Him an' his Gideon. Sure. If it's my son, the least I can do is give him a name.

280. CLOSEUP TRINA

She stares at him wonderingly.

281. TWO SHOT

As Bill speaks roughly:

BILL

Gimme that basket. I'll carry it.

He takes the basket from her hands and slips it over his elbow. She takes his arm. PAN as together they walk in silence between two rows of sweating pushcart vendors, each pushcart surrounded by haggling women. As they walk through the line of pushcarts,

DISSOLVE TO:

282. INT. BILL'S SHACK—NIGHT—MED. SHOT

The flickering shadows of Bill, Trina, and Ira are seen, thrown on the wall of the shack by the light from the kerosene lamp. Ira is performing the marriage ceremony, reading from the Gideon Bible which he holds in his hands.

IRA'S VOICE

—through the same Jesus Christ, our Lord,
Who liveth and reigneth within, and the
Holy Spirit, ever one God, world without
end . . . Amen.

He can be seen to lean over and join the hands
of Bill and Trina.

[261]

283. CLOSE SHOT

The hands of Bill and Trina, as Ira's hand
finishes joining them together.

CAMERA DRAWS BACK to take in the faces
of the two as Trina looks up at Bill, who stares
frozenly ahead of him. The words which have
thrilled and filled Trina with a strange and almost
hurtful happiness have rung in Bill's ears like a sen-
tence of doom. Trina has changed her dress for an
old, but very lovely old-fashioned gown of the
period of the 90's. She looks like something out
of an old album as she stands beside Bill.

284. CLOSE SHOT IRA

In his shirt sleeves and wearing a gun in a
shoulder holster—as he continues solemnly:

IRA

Those whom God hath joined together,
let no man put asunder.

285. GROUP SHOT

Taking in Flossie, who stands a little to one side
as witness. Bill removes his hand from Trina's.
Ira clears his throat.

IRA

That's it, I think.

FLOSSIE

It would've looked better, Ira, if you wasn't packin' that heater.

IRA

(apologetically puts his hand on the gun and glances at it a moment)

I'm sorry. I was on my way to work when Bill came and asked me to—er—perform the ceremony. And I've got to go now—I'm late.

(to Bill and Trina)

O'course, ain't a church, but the words are the same, no matter who reads 'em. And, in the eyes of God, you're man and wife.

There is something sad and forlorn in his eyes as he looks at them and repeats:

IRA

Man and wife.

[262]

286. CLOSE SHOT

Featuring Trina and Ira.

TRINA

Thanks a lot for the dress, Ira. I'll let you have it back in the morning.

IRA

No, Trina. Keep it.

(wistfully)

You look just like Susan looked when she wore that dress forty years ago. It's laid in my trunk a long time. I s'pect it's too old-fashioned to be much use now—but it sorta suits you, Trina. You can call it a weddin' present.

(abruptly)

Well, I guess I got to go to work.

He shambles out.

287. THREE SHOT

FLOSSIE

(dully)

Believe it or not, I stood up like that once, and I heard the same words—and I believed 'em, too—

(quotes)

'Whom God hath joined'—

BILL

(interrupts harshly)

Handcuffed, you mean.

He exits. Trina stands quietly looking after Bill. She makes no effort to follow.

288. MED. CLOSE SHOT TRINA

Flossie comes into the shot. She sees that despite the twisted little smile on Trina's face, her eyes are wet with unshed tears. Flossie fidgets uncomfortably a moment, opens her mouth to say something, changes her mind and looks over at the table. On a tray on the table are a jug and four little glasses.

FLOSSIE

Can you beat it? Ira forgot to hand
out the dandelion wine!

Continued [263]

288. CONTINUED

She goes to the jug, pulls the cork and fills two
of the glasses with the wine. She picks up the
glasses, handing one to Trina.

FLOSSIE

Well—

(she hesitates, and speaks hopelessly)
Here's hopin'.

She tilts back her head and slugs down the wine.
Trina stands with the wine glass in her hand, the
wine untasted, as we

CUT TO:

289. INT. BRAGG'S SHACK—MED. SHOT

In his underwear and overshirt Bragg is asleep.
a patch of moonlight lighting up his filthy, bloated
face. Bill enters, comes up to the cot and looks
down on Bragg with an expression of distaste on
his face. He bends down and shakes Bragg, who
wakes and stares up owlishly, blinking.

BILL

Get up, Bragg!

Bragg swings over and sits on the edge of the
cot. He looks up at Bill suspiciously, a little
fearfully.

BRAGG

What is it?

BILL

I wanta scam outa here right away—tonight. Only it so happens I can't go unless I leave some money behind. Enough to take care of somebody—a coupla people for a long time. I gotta have plenty o' money—see?

BRAGG

(whining)

I haven't got a dime, Bill—not a dime.

BILL

No—but you know where to get it.

290. CLOSE SHOT

Favoring Bragg. He is puzzled; then the light of comprehension in his eyes.

Continued [264]

290. CONTINUED

BRAGG

Oh . . .

As he stares up at Bill:

CUT TO:

291. INT. IRA'S SHACK—MED. SHOT

Ira completes the making of his bed, puts on his hat and coat, picks up his Gideon Bible, turns out the lamp and, as he exits:

CUT BACK TO:

292. INT. BRAGG'S SHACK—MED. CLOSE SHOT

Bill is seated on the cot alongside of Bragg, who is wide awake now, talking to Bill eagerly in a hoarse whisper.

BRAGG

Ira? That's the easiest part of it. All the guy does down there is snooze. We could walk away with the buildin' an' he wouldn't know it. All we need's a coupla drills an' some gunpowder—and boom!

He makes an expressive gesture with his hands.

BILL

Get into your clothes.

293. WIDER ANGLE

As Bragg rises and goes over to a soap box, on which his clothes are thrown. As he begins to dress,

DISSOLVE TO:

294. INT. SMALL OFFICE OF TOY FACTORY—NIGHT—CLOSE SHOT

Featuring Ira's Gideon Bible on a desk. It is closed, with Ira's gun between the pages as a marker. CAMERA, DRAWING BACK, reveals Ira asleep by the desk. On the desk alongside the Bible is a flashlight. The lighting in the room comes from a single electric light bulb which is turned on and shaded off so that the light just misses Ira's head and is concentrated on the desk. Ira snores gently.

Continued [265]

294. CONTINUED

CAMERA SLOWLY PANS from desk, passing a door upon which we see lettered the firm name of the toy factory, Stark & Lee, and over to a half wood, half glass partition to the left of the door.

Through the glass section of the partition we see the faces of Bragg and Bill looking in at the sleeping Ira. Bragg has a newspaper-wrapped bundle in one arm. He can be seen to nudge Bill and whisper something to him. In pantomime we get over the fact that Bragg is suggesting to Bill that they do something about the sleeping watchman. With his hand he makes the motion of blackjacking Bill shakes his head and shows a violent objection to this procedure. He makes some sort of counter suggestion which we do not hear and Bragg shrugs. As they turn away from the glass partition,

CUT TO:

295. INT. CORRIDOR OF TOY FACTORY—
MED. CLOSE SHOT

Bill and Bragg, as Bragg quietly turns the key in the lock of the door of the small office, and he and Bill start stealing down the corridor.

CUT TO:

296. INT. A LARGE OFFICE OF THE TOY
FACTORY—FULL SHOT

The room has several windows through which shafts of light come in from some course in the street, probably street arc lights. This office is more elaborately furnished and more imposing than the smaller office but should not suggest anything very modern or up-to-date. We want to get over the feeling of the sort of an office that might exist in a rather old-fashioned factory building down town. In one corner of the office is a large, old-fashioned safe with the name of the firm upon it.

In the center of the room, on the other side of the desk, is a long table of the sort used to display samples, and upon this table are a score or more of sample toys of the mechanical type which are wound up for movement.

We see a door at the far end of the office open and Bragg and Bill come in.

297. MED. CLOSE SHOT

Bragg and Bill—PANNING WITH THEM past the sample table to the safe. The two men look at the safe in silence.

Continued [266]

297. CONTINUED

BRAGG

(in a husky whisper; gloating as they examine the safe)

What'd I tell you? Could open it with a nail file.

He gets down on his hands and knees and starts working, as Bill looks curiously about the office.

298. CLOSE SHOT

Bragg. He first takes a squat, stumpy candle from his pocket and lights it. By the dim illumination of the candle he opens the newspaper-wrapped package and we see revealed the necessary tools and equipment for the blowing of the safe. As he does this, CAMERA GUNS UP TOWARD BILL who, attracted by something in the office, walks out of the shot. CAMERA centers on Bragg again as he works in silence for a moment, sorting out the necessary implements. Then, hearing a slight noise,

he turns, looking for Bill. He spots him off scene and registers alarmed irritation.

BRAGG

(in a low tone)

Hey! What're you doin' there?

As he stares off scene:

299. MED. CLOSE SHOT

At a sample table. This scene is lit from street lighting outside or possibly from moonlight. Bill has been prowling among the various toys and has found one that particularly appeals to him. It is an absurd little tin soldier, rigidly holding a bugle to his lips and operated by a spring that not only enables the little tin soldier to goose-step but also causes his cheeks to puff out and an elfin, tinny imitation of real bugle music to issue from the bugle. (The tune the bugle plays is Reveille.)

BILL

Look at this gadget.

300. CLOSE SHOT

Bragg, holding up the candle to see.

Continued [267]

300. CONTINUED

BRAGG

What is it?

CONTINUATION SCENE 299

BILL

Ain't it a hot one? Wait till I wind it up and see what it does.

He starts to wind it.

CONTINUATION SCENE 300

BRAGG

(hoarsely)

Say, what're we here for—to kick in this
pete or play with toys? Come on!

CONTINUATION SCENE 299

BILL

Just a second. I wanta see how it
works—

PAN DOWN WITH HIM as, having wound
the toy up, he places it on the floor.

301. CLOSE SHOT

At floor, as the toy starts to walk and play
“Reveille.”

302. INT. SMALL OFFICE OF TOY FACTORY—
CLOSE SHOT

Of Ira, fast asleep. The sound of the toy bugle
comes faintly into the shot. Ira stirs, wakes and
listens.

CUT BACK TO:

303. INT. LARGE OFFICE OF FACTORY—
MED. SHOT

Alarmed, Bragg reaches out and grabs the toy
soldier.

BILL

Gimme that!

Continued [268]

303. CONTINUED

He takes the toy from Bragg.

BRAGG

What's the matter with you? You wanta wake up the old geezer?

BILL

If this wakes him up, what's goin' to happen when you blow that safe?

BRAGG

He's locked in his office, ain't he? By the time he gets here, we'll be gone. Put that thing back and gimme a hand.

304. CLOSE SHOT

Bragg, as he selects a drill and places the drill point over the tumblers of the safe.

BRAGG

(as he drills)

If he wakes up we'd be in a tough spot—without a gun or anything . . .

(pauses and looks up)

I still think you oughta go back an' tap him on the head, like I told you. I'd feel a lot better if he was gagged and tied up.

305. TWO SHOT

BILL

Nah. Ira wouldn't hurt a fly.

BRAGG

(uneasily)

Well, just the same, you better go over
an' open that window, there.

BILL

What for? We're up three stories.

BRAGG

There's a fire escape.

PAN WITH BILL over to the window. He
opens it and looks out.

306. CLOSE SHOT

Bill at window.

Continued [269]

306. CONTINUED

BILL

Sure is a swell night out. Look—you
can see the old river from here.

(he points)

An' the camp, too.

(he is silent a moment, the sound of the
drill coming into the shot)

The moon sure looks slick on that water.
I think when I blow outa here I'll hit the
waves instead o' the ties . . . Maybe on a
freighter . . . Did'ya ever go downtown
an' get the smell o' them ships that come
in from China and them places? . . .

(he winds the toy in his hand, looking at it)

I wonder what Whoosits is doin'? I'm gonna take this dingus home to her . . . She can give it to the kid. She'll get by all right, now, with the dough I'm gonna give her . . .

He is interrupted by the sound of Bragg's voice, panicky—

BRAGG'S VOICE

Look out!—

307. TWO SHOT

As Bill wheels around, looking in the direction in which Bragg is pointing.

CAMERA SWINGS OVER to take in the slightly open door at the opposite end of the room, as the beam of a flashlight sweeps across it.

308. MED. SHOT

Bragg makes a dive for the window, scrambles through it and is gone. Bill turns with a quick look toward the safe.

309. CLOSE SHOT

At door, as the figure of Ira appears, flashlight in one hand and gun in the other.

310. FULL SHOT

Of room. Bill's back is momentarily toward the door as he looks at the safe. The next instant, as he turns to follow Bragg out the window, Ira fires. Bill staggers and goes down.

311. MED. SHOT

Taking in Bill and safe, as Ira comes into the scene, gun in hand. Bill suddenly comes to life and, grabbing Ira by the foot in a tackle, throws him down. There is a struggle, during which Bill, with small difficulty, grabs the gun from Ira's hands. All through this, Ira has not recognized Bill, and it is only as Bill has wrenched the gun from his hands that Ira gets a full look at Bill's face.

312. CLOSE SHOT

Of the two, Bill holding Ira's gun pointed directly at Ira.

313. CLOSEUP

Ira, as he recognizes Bill and stares at him, unbelieving, hardly able to credit the evidence of his senses.

314. EXT. FIRE ESCAPE—CLOSE SHOT

Bragg. He crouches on the fire escape, peering over the sill of the window into the office, watching.

CUT BACK TO:

315. INT. LARGE ROOM OF TOY FACTORY—
TWO SHOT

Bill and Ira.

BILL

Yes, it's me. Me! The guy you married off a couple of hours ago. I'm not here on my honeymoon, either . . .

(he puts his hand to his wounded shoulder
and withdraws it, covered with blood)

For a guy that reads Bibles an' raises
harebells you shoot pretty straight, don't
you?

(winces)

You old son-of-a-gun! You might've
killed me.

IRA

Served you right if I did. Somebody
ought to teach you a lesson.

(stuttering with rage)

A young squirt like you goin' around
robbin' places!

Continued [271]

315. CONTINUED

BILL

It's a low-down thing to do at that, ain't
it? But if you had to have money as bad
as I do, you wouldn't be so particular.

IRA

Who was that man with you?—the one
that got away?

CUT TO:

316. EXT. FIRE ESCAPE—CLOSE SHOT

Bragg, crouching and listening.

BILL'S VOICE

Him? I don't remember the name. I
never met the guy before tonight.

CUT BACK TO:

317. INT. LARGE ROOM OF TOY FACTORY—
TWO SHOT

Bill and Ira.

IRA

You better give me that gun and surrender peacefully. If you do, I'll see the law deals easy with you.

BILL

(contemptuously)

They ain't gonna deal with me at all.

CAMERA PULLS BACK as he gets to his feet.

BILL

Stay where you are, Ira. Don't move. If you start anything I'll bust you one you'll remember the rest o' your life.

Ira watches as Bill goes over to the safe.

IRA

What'd you expect to find there—if you did get it open?

BILL

(disgusted)

Apples.

Continued [272]

317. CONTINUED

IRA

Lemons, more likely. You certainly wouldn't've found any money—not in that old cracker-box. If it's the payroll you're after, it's in a safe in the other office.

BILL

(turns quickly)

That so? Know the combination?

318. MED. CLOSE SHOT

Ira.

IRA

If I did, I wouldn't tell you.

Bill enters shot, threateningly.

BILL

Maybe you would if I poke this gun
down your gullet.

IRA

Try it. If you got guts enough to shoot
a man in cold blood, then I got guts enough
to take it.

BILL

(relaxes)

I guess you have, at that.

(he grins)

You're all right. I wouldn't hurt you.
If I knocked you off, who'd take care o'
them harebells?

CUT TO:

319. EXT. SECTION OF FIRE ESCAPE AT
GROUND FLOOR—MED. SHOTBragg, looking around to see whether anyone is
on the street below, watching, satisfied himself that
he is unobserved and tries a window on the first
floor. It opens. As he climbs through:

CUT TO:

320. INT. FIRST FLOOR CORRIDOR OF TOY FACTORY—MED. SHOT

As Bragg comes through the window. He starts down the corridor, CAMERA TRUCKING WITH HIM, until he reaches a contrivance set in the wall of the corridor, before which he pauses. He looks at the contrivance and sees:

Continued [273]

320. CONTINUED

INSERT: CLOSEUP

Burglar alarm—one of the type operated perhaps by the breaking of glass or some other appropriate means.

321. CLOSE SHOT

Bragg, before the burglar alarm. He look at it a moment, then his eyes travel upward toward the upper floor and into his face comes the portent of an evil impulse.

CUT TO:

322. INT. LARGE ROOM OF TOY FACTORY—TWO SHOT

Bill and Ira. Ira has gotten to his feet and is staring mournfully at Bill, who stands before him, gun in hand.

BILL

(uneasily)

What's the matter, Pop? What're you lookin' so sour about? Are you disappointed in me?

IRA

I'm not thinkin' of you. I'm thinkin' of your wife.

BILL
(starts)

My what?

IRA

Your wife, Trina—who trusted herself into your hands—who looks up to you—who—

He stops suddenly as the clangor of the burglar alarm fills the room. The bells can be heard ringing all over the factory building.

BILL
(harshly)

What's that?

Continued [274]

322. CONTINUED

IRA

(stuttering with excitement and anxiety)

Somebody set off the burglar alarm!
There'll be cops all over the place in a few minutes—

As Bill stands undecided, he continues.

IRA

Well, what're you standin' there for?
(he starts pushing Bill toward the window)
Go on—beat it! Hurry—before they get here—

He practically shoves Bill through the window.

323. CLOSE SHOT

At window. Bill is halfway through the window when he suddenly recollects something. Pushing Ira aside, he gets back into the room—CAMERA PANNING WITH HIM—and picks up the little toy soldier from the floor where he had dropped it. He sticks it in his pocket then hurriedly clambers over the sill and out onto the fire escape.

All through this, the loud, brazen clangor of the burglar alarm, as we

FADE OUT.

[275]

FADE IN:

324. INT. IRA'S SHACK—NIGHT
CLOSE SHOT

featuring Flossie's hands emptying the last of the dandelion wine from an inverted demijohn into a glass. As it falls into the glass with a soft gurgle, CAMERA PULLS BACK to show Flossie, seated at the table by the light of a kerosene lamp. Over the shot comes faintly the music of an accordion playing somewhere in the camp—which music will continue throughout most of this sequence.

Flossie tosses off the last glass of dandelion wine. She has a noticeable edge on. Having finished the glass, she inverts the demijohn again and a hopeless look comes on her face when no liquor comes out. She stares moodily at the empty demijohn, suppresses a hiccough, then—attracted by some noise she hears outside—she gets up and goes to the window of the shack.

325. CLOSE SHOT

Flossie at window, as she looks out and sees:

CUT TO:

326. EXT. BRAGG'S SHACK

MED. LONG SHOT

from angle of Ira's shack. Bragg stands in the doorway of his shack. He is flinging small pebbles at:

327. EXT. BILL'S SHACK

CLOSE SHOT

Featuring the small window of the shack as a couple of small pieces of gravel hit the window.

CUT TO:

328. INT. BILL'S SHACK

MED. SHOT

Trina, still attired in her wedding dress, is seated at the table, reading a Bible by the light of the kerosene lamp.

329. CLOSEUP TRINA

Her eyes are filled with tears.

INSERT: CLOSE UP

open pages of Bible—the type blurred and dimmed as though seen through a film of tears.

[276]

CONTINUATION SCENE 328:

Trina hears a sound as more pebbles hit the window. She turns, rises and goes over to the window, CAMERA PANNING WITH HER. She peers out but in the dark can see nothing. She then goes to the door and exits.

CUT TO:

330. EXT. BILL'S SHACK
MED. SHOT

as Trina comes out. She stands waiting and listening, looking about her. She still cannot see Bragg, but into the shot comes a sibilant hissing sound. She turns in the direction of the sound and slowly starts toward it.

CUT TO:

331. EXT. IRA'S SHACK
CLOSE SHOT

Flossie in the doorway, watching.

CUT TO:

332. EXT. BRAGG'S SHACK
MEDIUM SHOT

PANNING WITH TRINA as she approaches Bragg's shack. Bragg's voice comes into the shot.

BRAGG'S VOICE
(in a low tone)

Trina—

As Trina starts at the sound of Bragg's voice, CAMERA PANS to include Bragg, waiting in his open doorway.

TRINA
(suspiciously)

What d'ya want?

BRAGG

I got some news for you. Bad news.

(in a low, urgent voice)

Come on in. I don't want nobody but you to hear it.

333. CLOSE SHOT

Trina, as she hesitates.

BRAGG'S VOICE

(low)

It's about Bill . . .

(Trina starts)

He's in trouble.

[277]

334. TWO SHOT

At this news Trina comes directly toward Bragg. He steps inside the shack, holding the door open. She enters.

CUT TO:

335. INT. BRAGG'S SHACK

TWO SHOT

as Trina enters. Bragg closes the door immediately.

CUT TO:

336. EXT. BRAGG'S SHACK

MEDIUM SHOT

as Flossie comes up to the door. She pauses before the closed door, frankly eavesdropping.

CUT TO:

337. INT. BRAGG'S SHACK

TWO SHOT

Bragg looks at Trina. He cannot keep his lustful desire from burning in his eyes. She glances toward the closed door and then back at Bragg.

TRINA

What is it?

BRAGG

Your boy friend got nabbed robbin' the safe at the top factory. They caught him with the goods.

TRINA

No—you're jokin', Bragg. Bill wouldn't do a thing like that. Bill ain't a thief.

BRAGG

That's just it. Steppin' out of his class. That's why he got caught. An' he was shot, too, tryin' to get away.

338. CLOSE SHOT

Trina, as she stares at Bragg, terrified, then starts for the door.

[278]

339. TWO SHOT

as Bragg bars her way, gripping her slim arms with his puffy, dirty hands.

BRAGG

(softly)

Wait a minute, honey—don't get upset. That ain't all I got to tell you. You got nothin' to be worried about. He may go down the river for a spell, but I'm still around. I'll always be around, baby, to take care o' you.

TRINA

Let me outa here!

She squirms in Bragg's grip. He lets go of her arm but still bars her way.

BRAGG

(devouring her with his eyes)

Sure. There's no hurry. I'll be here.
Only—with Bill in the jug—you're goin' to
need a man around. You an' me wouldn't
make a bad team . . .

340. CLOSE SHOT

Bragg, as he continues:

BRAGG

Come on, kid—you might as well shake
yourself out of it. Moonin' around won't
get you no place.

341. CLOSE SHOT

Trina, as Bragg's voice continues:

BRAGG'S VOICE

Why get torn up about one guy like that?
You might as well forget Bill for a while . . .

342. TWO SHOT

Taking in door of shack.

BRAGG

I say, you might as well forget

Continued [279]

342. (CONTINUED)

BRAGG (Cont'd.)

about him.

(raising his voice)

He's gone, ain't he? I tell you, he's
gone.

The door opens and Flossie stands revealed in the
doorway.

343. CLOSE SHOT

Flossie.

FLOSSIE

You're a liar, Bragg. He ain't gone.

344. THREE SHOT

as Flossie continues, to Trina:

FLOSSIE

Bill just got home. I saw him go into
the shack a minute ago.

Trina pushes her way past Bragg and out.

CUT TO:

345. EXT. BRAGG'S SHACK

MED. SHOT

as Trina comes out and starts for Bill's shack, on a
run, CAMERA PANNING WITH HER. She
calls:

TRINA

(in a half-sobbing voice)

Bill—Bill!

CUT TO:

346. EXT. BILL'S SHACK

MEDIUM SHOT

as Trina reaches the door and enters.

CUT TO:

347. INT. BILL'S SHACK

MED. CLOSE SHOT

toward door, as Trina enters and looks about.

348. FULL SHOT

shack, from Trina's angle. There is nobody in the room.

[280]

CONTINUATION SCENE 347:

She registers uncertainty and fright, and half turns as though to run out again. As she does, she is attracted by the thin sound of tiny bugle music playing "Reveille." She looks in the direction from which the sound comes.

CAMERA PANS AROUND to take in bed as the little tin soldier comes marching from behind the bed, goose-stepping toward Trina.

349. CLOSEUP

Trina, as she stares wide-eyed at the phenomenon.

350. MEDIUM SHOT

toward bed. The little soldier plays his bugle valiantly as he marches along toward Trina. From behind the bed, where he has been hiding, Bill gets to his feet, a grin on his face.

351. CLOSEUP

Trina's astounded face.

352. TWO SHOT

as she runs toward Bill and throws her arms around him, sobbing his name.

353. CLOSE SHOT

of the two as Trina, her overwrought nerves giving way completely, clings sobbingly to Bill. Suddenly she senses the fact that one of her hands embracing Bill is wet. She looks at it and her face contracts with horror as she realizes that it is blood.

CUT TO:

354. EXT. BRAGG'S SHACK
TWO SHOT

Bragg in the open doorway: Flossie outside.

FLOSSIE

That was mighty decent o' you, Bragg,
to offer to take care of Trina. I didn't
know you had it in you.

(Cont'd.) [281]

354. (CONTINUED)

BRAGG

Well, she's a kind of a helpless little
thing—the sort that needs lookin' after by
a man.

FLOSSIE

(with a deceptive mildness)
What's the matter with Bill?

BRAGG

He won't be around. Didn't he crack a
crib?

FLOSSIE

He got away, didn't he?

BRAGG

For how long? The cops'll be down here
after him.

FLOSSIE

How d'you know?

BRAGG

I got a hunch.

355. CLOSE SHOT

Flossie, as she looks straight at Bragg. She understands his implied threat.

356. TWO SHOT

Bragg tries for an instant to meet her scornful gaze, then, as his eyes drop:

CUT TO:

357. INT. BILL'S SHACK

MED. CLOSE SHOT

Bill and Trina standing beside the table. She has taken off his coat and ripped off the sleeve of his shirt. There is a basin of water on the table. She washes his wound, her face a twisted mask of anxiety.

BILL

It's all right, I'm tellin' you. Just grazed me—ploughed a little meat off.

(half exasperated)

What's eatin' you? You'd think it was you got drilled, instead o' me.

(Cont'd.) [282]

357. (CONTINUED)

TRINA

I wish it was me.

(with a voice that's half a moan)

Bill, why did you do it? *Why?*

BILL

I couldn't check out leavin' you high an' dry, could I? That dough would've taken care o' you fine. But I flopped.

TRINA

(tearing a cloth for bandage)

I'm glad you did.

(she begins to bandage his arm)

I wouldn't've taken that money, anyway.

I'da given it back.

BILL

Yeah? How d'you s'pose you'd have gotten along? It takes money to have a kid, don't it?

358. CLOSE TWO SHOT

toward Trina. She tried to smile.

TRINA

For a strong, husky man, you're awful afraid of a little bit of a thing that ain't even born yet. Goodness! If I'd'a known that it'd scare you so much, I never would'a told you. Gosh, I'd'a gone away myself. But I didn't know you were such a coward, darlin'—

359. CLOSEUP

Bill

BILL

(dazed)

Coward?

CONTINUATION SCENE 358:

TRINA

(all this time she has been bandaging his arm)

Sure.

(Cont'd.) [283]

CONTINUATION SCENE 358 (Cont'd.)

TRINA (Cont'd.)

(there is something tender and motherly in the manner in which she chides him)

Afraid of a baby! Huh! The most natural thing. in the world, you big fool They're born all the time. An' if they happen to be men kids, they never grow up—just keep reachin' for the clouds all the time, an' listenin' to train whistles.

(she finishes the handaging job and looks at him smilingly)

There! How's that?

360. MED. CLOSE SHOT

Favoring Bill. He desperately wants to weep, and sits down, trying to hide his emotion by looking down at the floor. She stands behind him, her hand on his shoulder, and she speaks to him gently and serenely.

TRINA

You know that song, Bill—the one that goes—

(she sings a line softly)

Fish gotta swim—

Birds gotta fly—

(she pauses)

You're such a silly—robbin' safes to get money when you always said you had no use for money.

BILL

(without looking up, speaks in a low tone)
It wasn't for me.

TRINA

For me . . . I know. But I don't need
any . . . I don't need anything . . . not
even you.

He looks up at her.

TRINA

It ain't as if you ever said you loved me.
You never did. An' I don't blame you.
Don't you s'pose I know I'm just a stick-in-
the-mud? A barnacle—that's what I am. I've
held you back an' messed up your plans—
but I didn't mean to . . .

She comes around and gets down on her knees
before him.

[284]

361. CLOSE TWO SHOT

TRINA

You can go, sweetheart, and stay as long
as you like. Maybe some day you'll come
back . . .

(she adds hastily)

Not for good, I don't mean—just to visit.
you might get lonely, sometime, and sorta
curious an' wanta know what your son looks
like—maybe. Gosh—even birds can't fly all
the time, can they? They get tired an' have
to come home sometimes. They got nests,
haven't they? . . .

362. CLOSEUP BILL

His face is turned away from hers to conceal the twitching of his lips.

363. CLOSE SHOT

of the two. She senses what is happening inside of him and melts with pity. She reaches up, puts her arms around him and moves his head against her breast.

TRINA

(her voice breaking)

Sweetheart . . . sweetheart . . .

364. CLOSE SHOT

at door, as Flossie enters. She looks toward the figures of Bill and Trina. Over this—

TRINA'S VOICE

Please—please! I want you to feel right.
I want you to be happy.

365. TWO SHOT

Trina and Bill.

TRINA

(frantically)

I'll do anything if you'll only be happy.
I'll give up anything—even the kid—if
you'll only be happy!—

Flossie's cough comes into the scene and they
look up.

366. THREE SHOT

FLOSSIE

Pardon me—

(to Bill)

Bragg tells me you took Ira's gun away from him. You better let me have it.

BILL

What for?

FLOSSIE

If the cops should happen to come down here an' find the gun on you, it might come under the headin' of damaging evidence.

367. CLOSE SHOT

Bill.

BILL

(suspiciously)

What makes you think the cops'll be here?

368. THREE SHOT

FLOSSIE

I got inside information from a stool-pigeon pal o' mine.

(irritably)

Come on—ginme the gat!

As Bill rises, she comes over and impudently starts frisking him. She locates the gun and takes it out of his pocket.

FLOSSIE

Now, Mr. Bindlestiff, your freight train's waitin'. You better hop aboard.

BILL

(surly again)

What for?

FLOSSIE

You got to beat it before the cops come.

Bill is silent a moment, looking from Flossie's face to Trina's anxious one. Then he speaks:

BILL

No. I'm stickin' around

[286]

369. CLOSE SHOT

Flossie.

FLOSSIE

Take my word for it—if you hang around here, you're due for the stir—an' I don't mean a weekend. The quicker you scam, the better.

370. THREE SHOT

BILL

No.

FLOSSIE

Bragg told me you pulled that safe crackin' job to get some dough for Trina, so you could beat it.

BILL

That's right.

FLOSSIE

An' now, when stickin' around means the Big House, you wanta linger. That don't make sense.

BILL

Maybe it don't but I can't leave Whoosits.

FLOSSIE

Well, you dumb sap, why don't you take her with you? Didya ever think o' that?

371. CLOSE SHOT

Bill.

BILL

No.

(after a pause, turns to Trina.)

What about it, kid? You wanta go?

372. CLOSE SHOT

Trina.

TRINA

Wherever you go.

[287]

373. MEDIUM SHOT

as Flossie edges over to the door.

FLOSSIE

(turning)

I got a great schnozzle for flat feet. I can smell harness bulls a mile away—an' they're practically on their way now. So you better not stop to pack.

She wavers a little unsteadily on her feet and manages a military sort of salute in farewell.

FLOSSIE

Happy landin'.

CUT TO:

She exits

374. EXT. BILL'S SHACK

MEDIUM SHOT

as Flossie comes out. She conceals the gun beneath a fold of her dress. PAN WITH HER as she makes her way rather unsteadily toward Bragg's shack.

CUT TO:

375. INT. BRAGG'S SHACK

MEDIUM SHOT

Bragg is waiting as Flossie enters.

BRAGG

(eagerly)

Well? . . .

FLOSSIE

I convinced him. He's hoppin' the next freight out.

BRAGG

Good.

376. CLOSE SHOT

Flossie.

(maliciously watching him)

Trina goes with him.

377. CLOSE SHOT

Bragg. His face falls.

BRAGG

(his voice rising angrily)

Oh, she does, huh? I didn't say anythin' about her goin'.

378. TWO SHOT

FLOSSIE

No, that was my idea.

BRAGG

Well, you're not goin' to get away with it. I got the goods on Bill. He even told me in advance he was goin' to pull that job, and he'll have a tough time explainin' that bullet wound. They'll pick 'em up before they leave camp—the both of 'em.

FLOSSIE

(mildly)

Not unless you squawk, Bragg.

379. CLOSE SHOT

toward Bragg, as he speaks malevolently.

BRAGG

Well, I'm *gonna* squawk. For the good o' the camp I'm *gonna* squawk. We don't want that kind of a guy around here. He'll always be bringin' the cops around. He's a criminal, he is. An' I'm thinking o' that poor little girl. What kind of a life would she lead, with a mugg like Bill?

(He starts toward the door)

I'm goin' right out now an'—

His eyes widen and his mouth remains open as he stops in sudden terror.

380. CLOSE SHOT

Flossie. She has the gun in her hand, pointed at Bragg. There is a savage joy in her eyes.

(Cont'd.) [289]

380. (CONTINUED)

FLOSSIE

You're not goin' to squawk to the cops, Bragg—for the simple reason that stiff's don't squawk.

381. TWO SHOT

BRAGG

(panicky)

Flossie—don't point that at me! You're drunk!

FLOSSIE

I guess if somebody searched the whole country—maybe the whole world—they couldn't find two people more useless—more no good—than you an' me. Neither one of us has got any excuse for livin'. No use at all to anybody—not even to ourselves.

BRAGG

(trembling with fear)

You wouldn't commit murder!

FLOSSIE

This ain't murder. Just house-cleanin'.
Stop your shakin'. It won't hurt. You'll
be where you belong. An' me—I'm drunk—
I'm not responsible. The State'll take care
o' me—Some place to sleep regular.

382. CLOSE SHOT

Bragg.

BRAGG

(in a strangled voice)

Flossie!

FLOSSIE'S VOICE

Close your eyes, Bragg.

A pitiable specimen of terror, he closes his eyes
and his knees sag as into the scene comes the sound
of Flossie shooting. She empties the gun into
Bragg's body. As he slumps to the floor . . .

DISSOLVE TO:

[290]

383. INT. MOVING CATTLE CAR—NIGHT
MEDIUM SHOT

This is an open car, roofless, with a piled up
bunch of straw at one end upon which Bill and
Trina are seated, leaning comfortably back. Over
the scene comes the steady click-click of the train
on the rails. Bill is smoking a cigarette. Both he
and Trina are looking up at the stars overhead.

TRINA

I'll certainly miss it . . .

(he gives her an inquiring look and
she adds, wistfully)

It was such a beautiful stove.

BILL

Ah-h—you can always get another one
on the installment plan—a better one, too.

He remains thoughtfully smoking, apparently trying to figure something out.

384. CLOSE SHOT

of the two, as she watches him. He begins to count on his fingers.

BILL

(half-audibly—tallying on his fingers)

August-September-October-November-
December—

(to Trina, enquiringly)

December, Whoosits?

TRINA

(nods and smiles)

December. A sort of a Christmas present, Bill.

She leans further back on the bolster of straw, supremely happy and contented. The sound of the train whistle comes into the shot.

385. CLOSEUP

Trina, as she hears the train whistle. She smiles serenely. The train whistle is no longer the dreaded enemy, but is now her friend. It has a lovely, homey sound.

[291]

386. TWO SHOT

The bodies of the two rock gently with the motion of the freight train. Suddenly a peculiar expression comes into Trina's face, half startled, half wondering, and altogether joyous. She speaks without turning, to Bill.

TRINA

Bill!

He turns enquiringly—Without speaking, she takes his hand and places it over her stomach. A startled expression comes on Bill's face and he looks wonderingly at Trina.

BILL

(low)

Geez! It's movin'.

TRINA

(almost inaudibly)

Life.

Again the whistle comes into the scene, as we

FADE OUT.

The End.

[292]

EXHIBIT B TO STIPULATION

February 10, 1944

Columbia Pictures Corporation,
Columbia Square,
Hollywood, California

Gentlemen:—

In consideration of the payment by me to you of the sum of Seven Hundred Fifty (\$750.00) Dollars, you grant to me the license to produce one (1) radio broadcast based upon your motion picture photoplay entitled "Man's Castle" on the Goodyear program which I am producing on February 20, 1944.

You further grant to me a license to make two radio broadcasts by electrical transcription of the above-mentioned radio adaptation, one in the territory of Hawaii and one in the territory of Alaska; such electrical transcription broadcasts shall, however, be made within a period of one hundred and twenty (120) days from and after the broadcast of the adaptation of said photoplay on the Goodyear Company program.

Immediately upon producing a radio broadcast of said motion picture version, I shall have no further rights therein (except to broadcast said electrical transcriptions as herein specifically provided).

You agree to permit me to use copies of the screen play and dialogue continuity of said motion picture version for the purpose of making, at my expense, a radio adaptation thereof, and you agree to furnish said copies upon my giving you reasonable notice as to the time I require them. I shall have the right to condense, modify, and adapt the abovesaid motion picture version in such

manner as to conform to the requirements and needs of radio broadcasting. [294]

Immediately upon the broadcast of the radio adaptation based upon the abovesaid motion picture version, I agree to return immediately to you any copies of the screen play and dialogue continuity theretofore furnished by you to me.

I expressly agree that I will not make any transcriptions for broadcasting purposes other than specifically provided above.

It is understood that you do not grant nor purport to grant to me the right to broadcast any of the music recorded in connection with said motion picture version; however, you agree not to object to my use of the music provided that I secure the rights and proper permission and license from the copyright owners of said music.

In all advance radio announcements and immediately preceding the presentation of the broadcast of my radio adaptation of said motion picture version, I agree to announce the title of said motion picture version and the fact that it is a Columbia Pictures Corporation production.

You hereby grant me the license to use the name of said photoplay in any proper way in connection with the advertising and/or publicizing of the said radio program produced by me.

I agree not to assign any rights under this agreement to any other person, firm or corporation without your written consent, and you agree not to unreasonably withhold such written consent.

I am not liable for any charges for brokerage or commission in connection with this agreement.

It is understood that one (1) radio broadcast, as such term is used herein, may include a broadcast and re-broadcast on the same day. [295]

You hereby warrant that you have acquired by agreements with the respective authors of the literary works upon which the abovesaid motion picture photoplay was based, or any other persons having any financial or other interests therein, the right to broadcast by radio versions or adaptations of said motion picture photoplay, and that you have heretofore fully complied with all the terms and provisions of said agreements. You further warrant that you have not heretofore granted or disposed of any right, title or interest in the abovesaid literary works or in the abovesaid motion picture photoplay which might invalidate or impede the enjoyment by me of any of the rights granted herein.

You agree that you will not license or grant to any person the right to broadcast by radio any version or adaptation of said motion picture photoplay until such time as I have completed the radio broadcast on February 20, 1944, of my version or adaptation thereof.

If the foregoing meets with your approval, your signature in the space provided in the lower corner, together with mine hereunder, will constitute this a valid and binding agreement between us.

Yours very truly,

(Signed) Wm. Morris Agency
as Agents

Walter Pidgeon

Agreed to and accepted:

COLUMBIA PICTURES CORPORATION

By (signed) B. B. Kahane

Vice-President [296]

[Title of District Court and Cause.]

REPORTER'S TRANSCRIPT OF PROCEEDINGS
ON TRIAL

Hon. Ben Harrison, Judge Presiding

Tuesday, September 12, 1944

10:00 o'clock A. M. [297]

The Clerk: No. 3527-Civil, Lawrence Hazard vs. Columbia Broadcasting System et al.

The Court: Proceed.

Mr. Loewenthal: I don't know, if the Court please, just how much more your Honor wishes to hear. I think everything that could be said by way of argument is included in the brief that plaintiff submitted, and is entitled, I think, Pre-trial Brief. I have one or two points that I would like to bring up at this time.

Mr. Knupp: Have you any additional evidence to introduce?

Mr. Loewenthal: Yes. I think Mr. Knupp and I have one point of evidence that we can also dispose of by stipulation.

The Court: Very well.

Mr. Loewenthal: I have here a printed form of contract, which is entitled, "Columbia Pictures Corporation of California, Ltd., Assignment of all Rights." I would like to present this to the court and have it considered as evidence. Mr. Knupp has stated that he will stipulate that this is a printed form of contract which, at one time or another, was issued by Columbia Pictures, purporting to assign the rights that are covered by this contract. I don't ask Mr. Knupp to stipulate that it is competent, or anything of that kind, but merely that it

is a copy of a printed form of contract which, at one time or another [298] was issued by the Columbia Broadcasting System.

Mr. Knupp: I think, if your Honor please, that is a form of contract which Columbia used at one time. I am not sure of the time when it was first used, but I think it is entirely incompetent in connection with this case, because it purports to assign all of the rights to all productions, literary work, or story, or anything of that kind, including copyrights. I don't see that it has any bearing on this question at all as to the motion picture rights or what the rights of the assignee are, if the court please.

The Court: Suppose we mark that for identification at this time.

Mr. Loewenthal: My point in presenting it is so that the court can see the language that Columbia Pictures at one time or another used. It is argument.

Mr. Knupp: It isn't even argument, unless the plaintiff in this case used that form of contract, or was familiar with that form of contract.

Mr. Loewenthal: That is not the point. We didn't think we had this kind of contract. This is a contract under which the radio rights clearly passed. We contend, under our contract, that the radio rights do not pass. Now, I present the two together, so that the court can see the language used by Columbia Broadcasting in its printed form.

The Court: I don't think that is important. Mark it for identification. [299]

Mr. Loewenthal: Mr. Knupp, you have a stipulation that you would like to read?

Mr. Knupp: Mr. Loewenthal has agreed with me, if the Court please, that he would stipulate to these facts: That the radio adaptation which was broadcast by the defendant Pidgeon, was written by one Charles Tazewell, and that Tazewell, if called as a witness in this case, would testify that he wrote the radio adaptation entirely from the screen play, that is to say, the motion picture scenario, and the dialogue, and that he did not have before him and had no access to the plaintiff's original dramatic composition.

Mr. Loewenthal: I will stipulate that those are facts, but I do not consider particularly that those facts are competent, because the scripts speak for themselves. I think the script tells the story, and I don't think it makes very much difference which document he read at the time he made the radio adaptation. Regardless of which original manuscript he may have read or copied from, when he finally got through the complete work, if it violates this contract, it makes very little difference where he got it.

The Court: I am going to admit that in evidence, under the stipulation.

Mr. Knupp: I think that is all the evidence we have.

The Court: Gentlemen, let me ask a few questions, which perhaps will clarify this matter. Is there any dispute [300] over this fact: That if there had been no contract in this case, that the radio adaptation as you call it, would have been an infringement of the copy-right of the original play?

Mr. Knupp: I don't think there is any question about that, if the Court please. I think that is shown clear enough by a comparison between the radio adaptation and the story.

The Court: That was my conclusion in reading the different scripts submitted to me.

Mr. Knupp: That is right.

The Court: Then it comes down to the real question here of an interpretation of the contract—isn't that the real issue in the case?

Mr. Loewenthal: That is right. We are agreed on that. We can decide the case without evidence, when you come right down to it.

The Court: I have read the brief, and will read it again, if necessary. But I was interested in this contract attached to the answer, that is, the portion commencing on line 17 of page 4, attached to the answer.

Mr. Loewenthal: Which is that?

The Court: That is the agreement of March 25th, between Lawrence Hazard and the Columbia Pictures Corporation of California.

Mr. Loewenthal: Is that paragraph three of the contract? [301]

The Court: No. It is part of paragraph one.

Mr. Loewenthal: What I have referred to as the granting clause of the contract?

The Court: Well, paragraph one—"The owner hereby grants," etc., and then the second paragraph, all interest as it is there set forth in the answer: "The owner hereby grants to the purchaser the exclusive right to make motion picture versions and silent and/or sound and/or talking and/or musical motion picture versions of such work (all such versions being hereinafter included and embraced in the expression "motion picture versions)." That is the first thing. And then it says: "to translate, adapt, arrange, change, transpose, add to and subtract from such work and the title thereof, to such extent as

the purchaser may deem expedient." That is another grant, is it not? And another one is: "to use excerpts from such work for the title, subtitles, text and dialogue of such motion picture versions, to publish, for the purpose of advertising and exploiting such motion picture versions, in such form as the purchaser may deem advisable, including its publication in newspapers, fan magazines and trade periodicals, a synopsis or story of such motion picture versions, not exceeding, however, ten thousand words in length."

And then it says: "to use excerpts"—

Mr. Loewenthal: May I interrupt? I don't think that ends that grant. I think you have to go further to see [302] what that particular grant embraces. I think the following language is a part of that same grant.

The Court: But, of course, we are getting down to the point. On line 1 of page 5 of the answer, it says: "to broadcast sketches of such motion picture versions." That is the gist of it, to me. What does that mean?

Mr. Loewenthal: That is why I interrupted by saying that you have to read that language in that part of the contract. I think here is the way it should be read: "to use excerpts from such work in heralds, programs, booklets, posters, lobby displays, press, books and all other mediums of advertising and publicity whatsoever, to broadcast sketches of such motion picture versions, to use parts of such work or of the theme thereof in conjunction with other work or works in the making of motion picture versions." Now, that is the first reference in the contract to broadcasting, isn't it?

The Court: Yes.

Mr. Loewenthal: If your Honor will examine that particular part of the contract you will come to the con-

clusion that the broadcasting rights are there limited and restricted to two conditions: Sketches in a complete play. And I tried to define "sketches", and Mr. Knupp attempted to do so. I don't think either one of us has succeeded in making a complete definition of it. But I think what is meant by "sketches" is what we see when we go into a motion picture, when they throw on the screen what they call a [303] trailer of some future attraction. That is a sketch.

The Court: That would be a picture.

Mr. Loewenthal: They could do the same thing in a broadcast, but that isn't broadcasting the whole play; it is a sketch, or a trailer. In other words, they take the action and theme, something that will attract the attention of the public, and they either do it over the air or throw it on the screen, to portray a coming attraction. You know, when you go to a motion picture theater, one of the things you have to sit through is a teaser of a coming attraction. That is known as a trailer; it is a preview of a part only, and that is what they mean by "sketches". This is clearly not a sketch; this is the whole play.

And number two in this same paragraph; I think they can only broadcast sketches in connection with the previously used language, the preceding language. I think they can broadcast a sketch only, and then only for advertising purposes, and this is clearly not an advertising of the picture. This was for the Goodyear—

The Court: I know, but if this word "sketches" has some peculiar meaning in the moving picture industry, we should know it; otherwise, we have to accept the ordinary definition.

Mr. Loewenthal: I think we should accept the ordinary definition. I don't think there is any evidence,

nor is it a fact, that the word "sketch" has any strange or unusual [304] meaning in the industry from what it has generally. I went to the law books to find a satisfactory definition of the word "sketch", and I wound up with one Webster, and then I wound up with another Webster. That is the only definition of "sketch" that is available. I don't think it has any different meaning in the industry than in public use. It isn't a whole play; it is a scene, or an act.

The Court: This was, you might say, a digest of a play, is what it really was.

Mr. Loewenthal: But it is a digest of his play. Every argument defendants made in their brief—for instance, as to how it was condensed—let me read you. I think we are inclined to be thrown off either way, because it is such a delicate question.

The Court: Now, the broadcasting follows the general line of the moving picture play.

Mr. Loewenthal: It does, and the original work also.

The Court: And it is also true that it follows the sequence of events more closely, as far as the picture is concerned, but you can see that they all come from the same source, as far as that is concerned; when you follow it back, it all goes back to the one source. But the only question in my mind is the interpretation of this contract, and that particular portion of that grant.

Mr. Loewenthal: I think if the court will again study the brief that we filed, with respect to that point, [305] there isn't another argument that I could make on that part of the contract that is not included in the brief.

The Court: What do you say, Mr. Knupp?

Mr. Knupp: I have very little to add. I think your Honor is entirely correct in the interpretation of that first paragraph of the contract. Those rights are all separate and distinct rights. For instance, the right to broadcast sketches of the motion picture version has no connection whatever with the right which is given in the following clause, so I think those are all separate and distinct rights and are in no way connected with or dependent on one another, and I can't conceive of any possible way of giving to the picture corporation the right to broadcast the sketch or motion picture version, unless it was what was done here. He sold the right to make a broadcast of a sketch of the dramatic composition instead of a sketch of the motion picture version. Unless we had already acquired that right under our contract—Mr. Loewenthal argues that that clause relates to a broadcast by which the motion picture exhibitor excites public interest, which is referred to as a teaser or a trailer. Those exhibitions on the screen are not of such character that they could be broadcast at all. They usually show just a few scenes, and, if any dialogue at all, it is just a few words of dialogue.

The Court: Have you gentlemen stipulated what the value would be, in the event I find for the plaintiff? [306]

Mr. Knupp: There are two possible rules of damage, if the court please, I don't know whether this is a case which comes under the general rule that the plaintiff is entitled to the damages he suffered, plus profits, or whether it comes under the rule in which, it being impossible to establish profits, the court may award to him damages which the court establishes, a minimum of \$250.00 and a maximum of \$500.00.

The Court: It wouldn't be difficult to ascertain the profits in this case, would it?

Mr. Knupp: I don't know what the basis of determining profits would be in this case.

The Court: It would be the profits from the broadcast, it seems to me, and that would arise from what the parties that broadcast the—

Mr. Loewenthal: No, I think not, your Honor. I believe this is the measure of damage, that the gross profits derived by, let us say, Walter Pidgeon, after deducting his direct overhead, is one element of damage; what Columbia Broadcasting System received, after deducting overhead, is another element; and what Columbia Pictures received from Walter Pidgeon for the rights granted to Pidgeon to broadcast is another element of damage. When Mr. Knupp and I discussed the procedure of this case, it was my thought that it was foolish to take the time of the court to go into the question of damage until we found what the court's ruling on this [307] general interpretation of the contract was going to be. My idea was that if the court finds for the plaintiff, then we can go into the question of damages, and until then what is the use of discussing it?

The Court: Well, I want to dispose of it, if I can.

Mr. Loewenthal: We will have to have evidence, then, on that point.

Mr. Knupp: I don't follow Mr. Loewenthal's ideas as to what would constitute the profits. I would think it would be the profits which were derived by Pidgeon, who probably had charge of the broadcasting and was responsible for it, and that those profits would be the profits that might be attributed to the use of this play, and would have to be determined by a study of the entire profits to determine what part resulted from the use of this play, and what part resulted from the services

of Loretta Young, or whoever was in the broadcast with him. That seems to be the rule with respect to literary work, and then the court would determine the portion of the profits arising from the different factors which contributed to this proposition. In one case they allowed twenty per cent of the profits as a result of the infringement, the use of the literary work. I don't know how it is possible in this kind of a case to determine what the profits were.

The Court: I am afraid it would make a terrific judgment, which the court, naturally, tries to avoid, because [308] the evidence here shows that they paid \$2500.00 for the picture rights.

Mr. Loewenthal: I don't think that much, was it?

Mr. Knupp: Yes. Columbia paid \$2500.00 for the motion picture rights, and Pidgeon paid \$750.00 for the right to broadcast this sketch or radio adaptation of the motion picture version.

The Court: Well, any judgment would be against Columbia, wouldn't it?

Mr. Knupp: Columbia is not a party to the action, if the court please. The judgment would be against those who participated, I presume.

The Court: Gentlemen, I will try to determine this matter in the next few days, and, if I hold for the plaintiff I will set down as early a date as possible to determine the damages.

Mr. Loewenthal: May I just urge the court, before we close, to remember one thing, and that is that I think a reading of the contract would show that Columbia Pictures would have a right to make the motion picture, and, of necessity, they needed some broadcasting rights for the reasons I have given in my brief. But I don't think that

it ever was intended to give them general broadcasting rights. It was strictly a motion picture right contract; it was not a radio right contract; and the radio rights are incidental to the motion picture rights. They never intended to give [309] general broadcasting rights. We wouldn't be here today if that were not the case. There is certainly something in this contract which throws a great deal of doubt upon the defendants' right to broadcast this picture, and, if that is so, then the plaintiff is the exclusive owner, and the plaintiff would have been prohibited from even broadcasting his own original play, and that is the incongruous part of it. I don't think it was ever intended that he should be deprived of the right to broadcast his own original work, but he would be, if counsel's position here is correct.

The Court: No, I don't think that is true. I think either one of them could have broadcast, if the defendants' position is correct, because they only had a right to broadcast the picture adaptation. As far as that is concerned, the contract has that one clause in there, as part of a sentence, that I am having difficulty in getting around. It looks like it was just stuck in there, but it looks like somebody is stuck by reason of it.

Mr. Loewenthal: I will tell you what I think about the contract.

The Court: It doesn't make any difference what you think. You didn't draw the contract. It came to your knowledge just as knowledge has to come to you or Mr. Knupp. When I first read this contract I thought that perhaps it was tied into the advertising feature. The more I study it, [310] the more I am inclined to follow the defendants' interpretation. I am speaking out loud and speaking frankly, so that counsel will know how I

feel. I am going to now take the matter under submission and read and study both briefs again.

Mr. Knupp: Paragraph three gives them the right to broadcast the motion picture version. As far as having broadcasting rights, the contract itself shows that we could have broadcast the entire play. But we have broadcasting rights, in addition to what is provided in that one paragraph.

The Court: Would that right include the resale?

Mr. Knupp: It would seem so to me, your Honor.

The Court: I can't adopt the view that they had a right to broadcast generally, anyway. This contract uses language which doesn't mean very much. Let me ask you this question.

Mr. Loewenthal: If there is any ambiguity, the construction must be *again* Columbia.

The Court: What I am getting at is this: If this case goes to the Circuit Court for interpretation of that contract, so as to eliminate future litigation—

Mr. Knupp: I don't suppose we could establish any testimony with respect to this particular contract, because every motion picture producer uses a different form of contract.

The Court: Well, the case is submitted, and I think [311] I will spend the balance of the day on it and try to reach an early conclusion.

Mr. Loewenthal: When you come to a conclusion, when you find out what the expression "motion picture version" means, I think it will be enlightening to all of us.

The Court: I may be mistaken, but in other cases I have had here, of violation of copyrights, etc., we have found out that when a script is sold, then it is turned

over to the writers of the studio, and they revamp and rehash it, and sometimes you can hardly recognize the script, or it is only through very close scrutiny that you can recognize it. In this case it is very apparent. But, as I understand, the motion picture version is the script from which the motion picture is made.

Mr. Loewenthal: I don't think so, your Honor.

Mr. Knupp: That is what I understood, if the court please. I thought what we filed with the court as an exhibit was a motion picture version.

The Court: I have read so many of these scripts, and I am trying to figure out whether I have seen the picture or not. I read one some time ago, and another one I just read, and I couldn't determine in my own mind whether I had seen the picture or read the script.

Mr. Loewenthal: The original story, by the way, I think is a very good story. I think it was somewhat garbled [312] in the original production, but I thought the original was a very beautiful story. But, getting back to a discussion of the version, I have heard discussions and arguments among lawyers—

The Court: I am not going to attempt to define any terms, but I do have to know what they mean. In that way you always get in trouble. I believe one meaning of the expression "motion picture version" is what you see when you go to see a motion picture, what you see on the screen. The motion picture of it is visualized for you on the screen, is what you see with your eyes, not alone because there is sound in connection with it, but it may be the combination of sound and the optical part of it as well, or it may be what you see on paper. It isn't such a simple thing as merely saying, "Well, the motion picture version is what is left on a piece of paper

after the writers get through tearing the original story to pieces." When I go to a motion picture theater I don't see that paper, but I do see the motion picture version. I haven't seen the paper that the author wrote on, so you can't say that what is on the paper is necessarily the motion picture version. I understood there was a stipulation here as to the version.

Mr. Loewenthal: The motion picture version, the motion picture script. But when we talk about broadcasting a motion picture version, I am by no means certain that it [313] wasn't intended only that the motion picture company, when it got its sound track and negative ready for showing on the screen, that it couldn't put that same box of film in a radio broadcasting station, and broadcast by television in your own home the picture that you would see in a motion picture theater.

The Court: Let me ask you this: It seems to me that I have been able to visualize it from the script quite well in my own mind. I have no desire to see it, because I know what the story is. The descriptions of the scenes, etc., were quite complete.

Mr. Knupp: I thought that, as it was filed with the Court, it was a true representation of what actually appeared on the screen. If there is any question about that, I would like to have the Court see the picture.

The Court: I don't question the fact that the picture which was shown on the screen is not actually depicted in the shooting script. My point is as to the physical thing; what is the version? Is it the film; is it what you see on the screen; or is it the paper, with the general continuity of plot? We know they couldn't broadcast the scenes, except with the little-used television.

Mr. Loewenthal: That is what that contract, in my opinion, is for, that there will come a day some time

when that is the way motion pictures will be shown, and I think [314] that is all the draft of this contract intended to do. Of course, you couldn't broadcast a sketch of a motion picture version, taken direct from the motion picture version; they would have to make it for that purpose. They might make it differently.

The Court: Gentlemen, this contract was drawn eleven years ago.

Mr. Loewenthal: That is why it was indefinite. They didn't know what they were talking about.

The Court: And we have waited eleven years; and we just read about television.

You may file this, Mr. Clerk.

The Clerk: That will be for identification. [315]

[PLAINTIFF'S EXHIBIT NO. 1 FOR
IDENTIFICATION]

COLUMBIA PICTURES CORPORATION
OF CALIFORNIA, LTD.

ASSIGNMENT OF ALL RIGHTS

Know All Men By These Presents:

1. That the undersigned, hereinafter referred to as the "Author," whether one or more, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt of all of which is hereby acknowledged, have granted, bargained, sold, assigned, transferred and set over, and by these presents do grant, bargain, sell, assign, transfer and set over, forever unto Columbia Pictures Corporation of California, Ltd., hereinafter referred to as the "Purchaser," all common law rights and/or all the copy-rights, and/or the right to secure copyright, in the United

States and all other countries of the world, in the name of the Purchaser, or otherwise, in the Purchaser's sole discretion, in and to that certain.....

.....

.....

hereinafter referred to as the "Work," written by the Author, including the title and theme thereof, all right and title in the manuscript thereof, and all now or hereafter existing rights of every kind and character whatsoever pertaining to said Work, whether or not such rights are now known, recognized or contemplated and the complete and unconditional and unencumbered title in and to said Work for all purposes whatsoever, and including also under such grant, sale and assignment, without in any way limiting or restricting the same, the entire literary, publication, novel- [316] ization, dramatization, performing, mechanical reproduction, radio and other broadcasting, television and silent, sound, talking and/or musical motion picture rights therein for all countries of the world and in all languages and any and all other rights of any character that may hereafter be invented, discovered or come into existence.

The rights herein granted, sold and assigned include the unrestricted right to translate (into all languages), adapt, arrange, change, transpose, add to, interpolate in and subtract from such work and the title and theme thereof to such extent as the Purchaser, in its sole discretion, may deem expedient in the exercise of the rights granted, sold and assigned to it, and to use parts of such work or of the theme thereof in conjunction with any other work or works, in any manner.

The rights herein granted, sold and assigned also include the unrestricted right to use excerpts from such

work for the title, subtitle, text and dialogue of any novelization, dramatization, motion picture or any other versions of such work and to advertise and exploit such work and any and all versions thereof in any manner as the Purchaser may deem desirable and to secure copyright and/or copyright registration in any and all such versions in the Purchaser's name or otherwise in the Purchaser's sole discretion.

The Author hereby grants, sells, assigns and sets over to the Purchaser forever all renewals of copyright and/or the right to renew and secure renewals of copyright, in all countries, in the name of the Author and/or the Purchaser and/or otherwise, in the Purchaser's sole discretion in such work and in any and all versions made in pursuance hereof, including under such grant, sale and assignment, without in any way limiting or restricting the same, all the rights specified in the first paragraph [317] of this Article, which may be created under any such renewal of copyright or which may otherwise exist or come into being, and for the purpose of executing, delivering and filing any documents that may be necessary, proper or expedient to renew or secure renewals of any such copyrights the Author appoints the Purchaser, its successors or assigns, the Author's attorney-in-fact, irrevocably.

2. The Author hereby appoints the Purchaser his true and lawful attorney irrevocable, in the Author's name or otherwise, but for the Purchaser's sole benefit and at the Purchaser's expense, to enforce and protect any and all rights in such work and/or in any versions thereof, under the common law and/or under any and all copyrights and renewals of copyrights and to prevent the infringement thereof and to litigate, collect and receipt for all

damages arising from any infringement of such rights and to join the Author in the Purchaser's sole judgment, as a party plaintiff or defendant in any such suit for infringement.

3. The Author warrants that the Author is the sole owner of the right to secure copyright, and of the manuscript of such work, and of all rights of every character in such work and has full right and authority to grant the rights hereby conveyed. The Author further warrants that such work is original with the Author in all respects and that no incident therein contained, and that no part thereof was taken from or based upon any other literary or dramatic or musical work or any motion picture or in any way infringes upon the copyright or common law right or the literary, dramatic, motion picture or any other rights of any party whomsoever; that such work is not in the public domain; that the literary, dramatic, motion picture and all other rights in such work have in no way been sold, mortgaged or otherwise disposed of and are free and clear of any liens or claims what- [318] soever in favor of any party whomsoever; that the title of such work, mentioned in Article 1 hereof, may be used as the title of any such literary, dramatic, motion picture or other versions; that the reproduction and exhibition of such work in the form of literary, dramatic, motion picture or other versions will not in any way infringe upon any rights of any party whomsoever; that the Author has done no act or thing that can in any way prevent or interfere with the full enjoyment by the Purchaser of the rights hereby acquired.

The Author agrees and guarantees to defend, indemnify and hold the Purchaser harmless against any losses, damages, expenses or judgments which may be sustained or

suffered by or secured against the Purchaser by reason of the use of the title of such work for the title of any such literary, dramatic, motion picture or other versions, or of any infringement of any copyright or common law rights or any literary, dramatic, musical or motion picture or other rights, on account of any use which the Purchaser may make of such work in the making of any literary, dramatic, motion picture or other versions thereof, the distribution, exhibition, performance, exploitation or other disposition of any such versions, or the exercise or attempted exercise of any of the rights hereby granted.

The warranties contained in this article apply only to the material used in any such versions taken from such work written by the Author and do not in any way apply to any extraneous matter inserted by the Purchaser in any such versions.

4. Without in any manner limiting the unlimited grant, sale and assignment herein made, the rights herein granted, sold and assigned to the Purchaser include the exclusive right to make, use, sell and otherwise exploit and dispose of disc records, sound on film, and any and all other mechanical contrivances or devices for the recording of [319] the sound and talking and musical and other audible portions of any motion picture versions and for the reproduction and performance of all such sounds as part of or incidental to the exhibition thereof, and also include the exclusive right to project by television, radio, electricity or in any other manner any such motion picture versions, including the sound, talking, singing and other audible portions thereof, through space, for exhibition and performance at any and all places away from that wherein any such motion picture versions shall be exhibited and performed.

5. The Author agrees to duly acknowledge, execute and deliver, or procure the due execution, acknowledgment and delivery to the Purchaser of any and all further assignments and other instruments that may be necessary or expedient to carry out and effectuate the purposes and intent of this agreement and to convey to the Purchaser all rights in such work, as long as any rights in said Work are recognized in law or in equity. Purchaser shall have the right, but shall not be obligated, to use the name of the Author as the Author of such work in connection with this work and/or with any versions of any character thereof.

6. Wherever in this assignment reference is made to the Author, it shall be deemed to embrace and include the Author's heirs, executors, administrators, next of kin, successors and assigns, and wherever reference has been made to the Purchaser, such reference shall be deemed to include and embrace its successors and assigns and the Purchaser shall have the free, full, unrestricted and unlimited right to sell, assign, transfer or otherwise dispose of this assignment, and/or any or all of its right, title and interest thereunder, in whole or in part.

7. This assignment shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, next of kin, successors [320] and assigns of the parties hereto.

8. Wherever the context of this assignment requires it, the masculine shall be deemed to embrace and include the feminine, and the singular shall be deemed to embrace and include the plural, and all Authors executing this assignment shall be deemed to be jointly and severally obligated and bound hereby.

[Title of District Court and Cause.]

MEMORANDUM OPINION

The right of the plaintiff to recover depends upon the interpretation of the contract dated March 25, 1933. Did or did not the plaintiff grant to the defendants the broadcasting privileges which they exercised? In Paragraph 1 of said contract, plaintiff granted to defendants the right "to broadcast sketches of such motion picture versions." Again Paragraph 3 provides: "The motion picture rights herein granted and assigned to the purchaser by the Owner(s) include the exclusive right to make and use disc records, sound on film, and any and all other mechanical contrivances or devices for the recordation of the sound and talking and musical and other audible portions of any such motion picture versions and for the reproduction and performance of all such sounds as part or incidental to the exhibition thereof, and also include the exclusive right to project by television, radio, electricity or in any other manner any such motion picture versions, including the sound, talking, singing and other audible portions thereof, through space, for exhibition and performance at any and all places away from that wherein any such motion picture versions shall be exhibited and performed."

Both parties endeavor to draw fine distinctions over the meaning of "versions". Our Circuit Court had its troubles over a [322] phrase including the word "versions", (*Corcoran v. Montgomery Ward Co.*, 121 F. (2d) 572-3) but the cited case gives us little aid in this case.

Plaintiff in his pre-trial brief on page 9 gives the definition of "version" as found in Webster's Dictionary and as a part thereof quotes as follows: "3.—An account from a particular point of view, esp. as contrasted with another account, as, two versions of the same affair."

In this case we have the author's story as represented by his script, while on the other hand we have a version of the same affair as produced and developed by Columbia Pictures. It was this version that was broadcasted and it is my opinion the plaintiff granted the right to do so.

Defendants are entitled to judgment and are directed to submit proposed findings and judgment within ten days.

Dated: September 14, 1944.

BEN HARRISON

Judge [323]

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS
OF LAW.

The above entitled action came on regularly for trial before the above entitled court, Honorable Ben Harrison Judge thereof, plaintiff appearing through his attorneys, Messrs. Loewenthal & Elias and Paul Loewenthal, Esquire, and the defendants appearing through their attorneys, Messrs. Mitchell, Silberberg & Knupp and Guy Knupp, Esquire. The parties filed herein a stipulation of facts and additional evidence was offered by each party. The court has read and considered said stipulation and the evidence offered by the parties, and now makes and files its Findings of Fact and Conclusions of Law as follows:

Findings of Fact

1. Jurisdiction of the action is founded upon Section 34 of the Copyright Laws of the United States of America, being Title 17 U. S. C. A., Section 34.

2. Prior to May 28, 1932, plaintiff, who was then and ever since has been a citizen of the United States, created and wrote a [324] dramatic composition entitled "A Man's Castle," which has not been reproduced in copies for sale.

3. Said dramatic composition contains a large amount of material wholly original with plaintiff, and was and is copyrightable subject matter under the laws of the United States. Said dramatic composition is attached to the complaint herein as Exhibit 1.

4. On or about May 28, 1932, plaintiff complied in all respects with the provisions of the Copyright Act of 1909 as amended, and particularly with the provisions of Section 11 of said Act, and all other laws governing copyright, and secured the exclusive rights and privileges in and to the copyright of said dramatic composition, and received from the Register of Copyrights a certificate of registration dated and identified as follows: "May 28, 1932, Entry: Class D2, No. 16584."

5. Since May 28, 1932, plaintiff has been and still is the sole proprietor of all rights, title and interest in and to the copyright in said dramatic composition, save and except such rights, and such title and interest therein, as was granted by said plaintiff to Columbia Pictures Corporation of California, Ltd. under the terms of an agreement between said corporation and the plaintiff dated March 25, 1933, a copy of which agreement is attached to the answer of the defendants Columbia Broadcasting System, Inc., Walter Pidgeon and Young & Rubicam, Inc., and marked Exhibit A.

6. Columbia Pictures Corporation of California, Ltd., pursuant to the agreement referred to in the preceding paragraph, prior to the year 1944, made, prepared and produced a motion picture version of the dramatic composition entitled "A Man's Castle," the screenplay and dialogue continuity for which motion picture version is attached to the stipulation of facts herein as Exhibit A. Thereafter, and prior to February 10, 1944, Columbia Pictures Corporation of California, Ltd., a California

corporation, [325] was merged with Columbia Pictures Corporation, a New York corporation, under the name of Columbia Pictures Corporation.

7. On February 10, 1944, Columbia Pictures Corporation, in consideration of the payment of \$750.00, granted the defendant Walter Pidgeon a license to produce one radio broadcast based upon the motion picture photoplay, and a copy of said license is attached to the stipulation of facts filed herein, and marked Exhibit B.

8. Defendant Walter Pidgeon entered into a contract with defendant Young & Rubicam, Inc., under the terms of which Pidgeon was employed to secure the necessary assistants—other than the guest star—and music, and to arrange for, produce and act in a radio play to be broadcast over the facilities and from the studio of defendant Columbia Broadcasting System, Inc. Young & Rubicam, Inc. acted for and on behalf of a corporation which sponsored the program and said corporation is not a defendant in this action. The program was broadcast on February 20, 1944, from the Hollywood Studios of Columbia Broadcasting System, Inc. over a national hookup comprising 131 stations. The duration of the program was one-half hour, and a full, true and correct transcription thereof is attached to the complaint and marked Exhibit 2. The radio play was not broadcast at any other time or over any other station.

9. The radio broadcast referred to in the foregoing paragraph was a sketch of the motion picture version of plaintiff's dramatic work.

Conclusions of Law

As Conclusions of Law from the foregoing Findings of Fact the court determines:

1. Plaintiff expressly granted the right to broadcast by radio a sketch of the motion picture version of his dramatic work, and such right was lawfully assigned to the defendants herein.

2. Defendants did not, by said radio broadcast, infringe the copyright of the plaintiff in the manner set forth in the [326] complaint, or otherwise, but on the contrary were expressly authorized and empowered by license from the plaintiff so to do, and plaintiff is entitled to take nothing by his complaint herein.

Let Judgment be entered accordingly.

Dated: Sept. 25, 1944.

Ben Harrison

U. S. District Judge

The foregoing Findings of Fact and Conclusions of Law are hereby approved as to form under Rule 7.

LOEWENTHAL & ELIAS

By Paul Loewenthal

Attorneys for Plaintiff. [327]

In the District Court of the United States
Southern District of California
Central Division

No. 3527-BH

LAWRENCE HAZARD,

Plaintiff,

v.

COLUMBIA BROADCASTING SYSTEM, INC.,
a corporation, et al.,

Defendants.

JUDGMENT

The above entitled action came on regularly for trial before the above entitled court on September 12, 1944, Honorable Ben Harrison Judge thereof, plaintiff appearing through his attorneys Messrs. Loewenthal & Elias and Paul Loewenthal, Esquire, and the defendants appearing by their attorneys, Messrs. Mitchell, Silberberg & Knupp and Guy Knupp, Esquire, and the court having duly considered the law and the evidence, and being fully advised herein, makes and files herein its Findings of Fact and Conclusions of Law.

Wherefore, by reason of the Findings of Fact and Conclusions of Law aforesaid, It Is Hereby Adjudged and Decreed that plaintiff take nothing by his complaint herein, and that defendants have and recover their costs herein incurred. Taxed at \$34.50.

Dated: Sept. 25, 1944.

Ben Harrison

U. S. District Judge

Entered 9/25/44, Civil Order Book No. 28, Pg. 133 [328]

The foregoing Judgment is hereby approved as to form under Rule 7.

LOEWENTHAL & ELIAS

By Paul Loewenthal

Attorneys for Plaintiff [329]

[Title of District Court and Cause.]

NOTICE OF APPEAL

To the Honorable, Benjamin Harrison, Judge of the above captioned court; and to the defendants above named and Messrs. Mitchell, Silberberg & Knupp, their attorneys:

You and Each of You Will Please Take Notice that Lawrence Hazard, the plaintiff in the above entitled action, hereby appeals to the United States Circuit Court of Appeals, for the Ninth Circuit, from the judgment herein made and entered in the said District Court of the United States, Southern District of California, Central Division, on the 25th day of September, 1944, in favor of the said defendants and against the said plaintiff, and from the whole of said judgment.

Dated: December 22, 1944.

LOEWENTHAL & ELIAS and
J. ROBERT ARKUSH

By J. Robert Arkush

Attorneys for Plaintiff

[Endorsed]: Filed 12/22/44. [330]

[Title of District Court and Cause.]

STIPULATION RE RECORD ON APPEAL

It Is Hereby Stipulated between the parties hereto, by and through their respective counsel, that the copies of the various documents, exhibits, records and instruments attached hereto are true and correct copies of all thereof, and that the same constitute a full, complete and true record of the entire proceedings had at the trial of the above entitled action.

It Is Further Stipulated that the same shall constitute the complete record upon appeal from the judgment made and entered in said action by the above entitled court against plaintiff and in favor of defendants therein.

Dated: January 4, 1945.

LOEWENTHAL & ELIAS and
J. ROBERT ARKUSH

By Paul Loewenthal

Attorneys for Plaintiff

MITCHELL, SILBERBERG & KNUPP
By Guy Knupp

Attorneys for Defendants [331]

[Title of District Court and Cause.]

ORDER APPROVING RECORD ON APPEAL AND
CERTIFYING SAME TO THE CIRCUIT
COURT OF APPEALS

After examination of the foregoing record on appeal, and pursuant to the stipulation of the parties contained therein, it is hereby found that the foregoing is a true record and fully presents any questions that can be raised on appeal.

The said record is hereby approved and same is hereby certified to the Circuit Court of Appeals as the record on appeal.

Dated: January 12, 1945.

Ben Harrison

Ben Harrison

Judge of the above captioned court

[Endorsed]: Filed Jan. 12, 1945. [332]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 332 inclusive contain the stipulated record on appeal and order approving same and certifying same to the Circuit Court of Appeals which constitutes the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing and certifying the foregoing record amount to \$2.75 which sum has been paid to me by appellant.

Witness my hand and the seal of said District Court this 30 day of January, 1945.

[Seal]

EDMUND L. SMITH,

Clerk

By Theodore Hocke

Chief Deputy Clerk.

[Endorsed]: No. 10975. United States Circuit Court of Appeals for the Ninth Circuit. Lawrence Hazard, Appellant, vs. Columbia Broadcasting System, Inc., a Corporation; Walter Pidgeon; Loretta Young; Young & Rubicam, Inc., a Corporation; and Goodyear Tire & Rubber Co., Inc., a Corporation, Appellees. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California, Central Division.

Filed January 31, 1945.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for
the Ninth Circuit.

No. 10975

In the Circuit Court of Appeals of the United States
in and for the Ninth Circuit

LAWRENCE HAZARD,

Appellant,

vs.

COLUMBIA BROADCASTING SYSTEM, INC., a
corporation; GOODYEAR TIRE & RUBBER CO.,
INC., a corporation; WALTER PIDGEON; and
YOUNG & RUBICAM, INC., a corporation,

Appellees.

STATEMENT OF POINTS ON WHICH
APPELLANT RELIES ON APPEAL

The points on which appellant intends to rely on appeal
are as follows:

I.

That under the contract dated March 25, 1933, between appellant and the appellee Columbia Pictures Corporation of California, Ltd., appellant did not grant any license or right to broadcast by radio any complete play based upon the dramatic composition "A Man's Castle," or to make any other radio broadcast thereof excepting upon the very limited and restricted conditions provided in the aforementioned contract, and the trial court erred in interpreting said contract to the contrary.

II.

The broadcasting activities carried on by appellees were carried on in violation of the aforementioned contract, and the trial court erred in refusing to so hold.

III.

The trial court erred in denying appellant the right to introduce in the trial court, as evidence in the case, Plaintiff's Exhibit No. 1 for Identification, which exhibit is a form or assignment of all rights used by the appellee Columbia Pictures Corporation of California, Ltd. where all rights are granted to said corporation; that the trial court's refusal to allow the introduction of the said document constituted prejudicial error to the appellant herein.

IV.

That No. IX of the Findings of Fact, to wit: "The radio broadcast referred to in the foregoing paragraph was a sketch of the motion picture version of plaintiff's dramatic work . . ." is not based on nor supported by any evidence, and the trial court erred in so finding.

V.

The trial court erred in its Conclusions of Law in stating that the defendant did not, by said radio broadcast, infringe the copyright of the plaintiff in the manner set forth in the complaint, or otherwise, but on the contrary were expressly authorized and empowered by license from the plaintiff so to do, and plaintiff is entitled to take nothing by his complaint herein.

As provided in Rule No. 19 of Rules, United States Circuit Court of Appeals, for the Ninth Circuit, the following portions of the record are necessary for the consideration of the foregoing statements: All of the original certified record, pages 1 to 332, inclusive, with the omission of Exhibit 1 to plaintiff's complaint, which is plaintiff's original dramatic composition (first version), which omitted portion covers pages 8 to 117 inclusive, of the original certified record.

Dated: January 30, 1945.

Respectfully submitted,

LOEWENTHAL & ELIAS and
J. ROBERT ARKUSH

By Paul Loewenthal

Attorneys for Appellant

Received copy of the within Statement of Points on Which Appellant Relies on Appeal this 30th day of January, 1945.

Mitchell, Silberberg & Knupp

By Guy Knupp,

Attorneys for Appellees.

[Endorsed]: Filed Jan. 31, 1945. Paul P. O'Brien,
Clerk.